



भारत का राजपत्र

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त एवं कम्पनी कार्य मंत्रालय

(राजस्व विभाग)

केन्द्रीय प्रत्यक्ष कर बोर्ड

नई दिल्ली, 3 अप्रैल, 2003

का. आ. 1222.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2^ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10 (23-छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2004-2005, 2005-2006 और 2006-2007 के लिए नीचे पैरा 3 में उल्लिखित उद्यमों/औद्योगिक उपक्रम को अनुमोदित करती है।

2. यह अनुमोदन इस शर्त के अधीन है कि :—

(i) उद्यम/औद्योगिक उपक्रम आयकर नियमावली, 1962 के नियम 2^ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10 (23-छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा,

(ii) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/औद्योगिक उपक्रम :

(क) अवसंरचनात्मक सुविधा को जारी रखना बंद कर देता है, और

(ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2^ड के उप नियम (7) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं करता है, अथवा

(ग) आयकर नियमावली, 1962 के नियम 2^ड के उप नियम (7) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम/औद्योगिक उपक्रम है :—

मैसर्स बी एस ई एस आन्ध्रा पावर लिमिटेड 6-3-1090/ए, कैम्पस कैप्री एपार्टमेंट्स, सोमाजीगुडा, हैदराबाद-500083 को समालकोट, पूर्वी गोदावरी जिला, आन्ध्र प्रदेश स्थित उनकी 220 मेगावाट कम्बाइंड साइकिल पावर प्रोजेक्ट हेतु। (फा. सं. 205/11/2001/आयकर नि. II)

[अधिसूचना सं. 77/2003/फा. सं. 205/11/2001/आयकर नि. II]

संगीता गुप्ता, निदेशक (आयकर नि. II)

MINISTRY OF FINANCE AND COMPANY AFFAIRS

(Department of Revenue)

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 3rd April, 2003

S.O. 1222.—It is notified for general information that enterprise/industrial undertaking, listed at para (3) below has been approved by the Central Government for the purpose of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962, for the assessment years 2004-2005, 2005-2006 and 2006-2007.

2. The approval is subject to the condition that :—

- (i) the enterprise/industrial undertaking will conform to and comply with the provisions of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962;
- (ii) the Central Government shall withdraw this approval if the enterprise/industrial undertaking :—
 - (a) ceases to carry on infrastructure facility; or
 - (b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962; or
 - (c) fails to furnish the audit report as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962.

3. The enterprise/industrial undertaking approved is —

M/s BSES Andhra Power Limited, 6-3-1090/A, Campus Capri Apartments, Somajiguda, Hyderabad-500 082 for their 220 MW Combined Cycle Power Project at Samalkot, East Godavari District, Andhra Pradesh. (F. No 205/11/2001/ITA-II).

[Notification No. 77/2003/ F.No.205/11/2001/ITA. II]

SANDEEPTA GUPTA, Director (ITA. II)

नई दिल्ली, 9 अप्रैल, 2003

(आय-कर)

का. आ. 1223.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार अधोलिखित संगठन को उनके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ संघ श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती है :—

- (i) अधिसूचित संघ अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रखरखाव करेगा,
- (ii) अधिसूचित संघ प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग “टेक्नोलॉजी भवन” न्यू महरौली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा,
- (iii) अधिसूचित संघ केन्द्र सरकार की तरफ से नामोददिल्लिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के सम्बन्ध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रोड, पांचवां तल, कलकत्ता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्र. सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स इंडियन इन्स्टीट्यूट आफ हेल्थ मैनेजमेंट रिसर्च 1, प्रभुदयाल मार्ग, मांगानेर एयर पोर्ट, जयपुर-302011	1-4-2002 से 31-3-2005

टिप्पणी: अधिसूचित संघ को सलाह दी जाती है कि वे अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 79/2003/फा. सं. 203/20/2003/आयकर नि.- II]

संगीता गुप्ता, निदेशक (आयकर नि.- II)

New Delhi, the 9th April, 2003

(INCOME TAX)

S.O. 1223.— It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned against its name, for the purpose of clause (ii) of Sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income Tax Rules, 1962 under the category “Association” subject to the following conditions :—

- (i) The notified Association shall maintain separate books of accounts for its research activities;
- (ii) The notified Association shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, ‘Technology Bhawan’, New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- (iii) The notified Association shall submit, on behalf of the Central Government, to (a) the Director General of Income Tax (Exemptions), 10 Middleton Row, 5th Floor, Kolkata-700071, (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income Tax/Director of Income Tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its Audited Annual Accounts and also a copy of Audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income Tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S. No.	Name of the organisation approved	Period for which Notification is effective
1.	M/s Indian Institute of Health Management Research, 1, Prabhu Dayal Marg, Sanganer Airport, Jaipur-302011.	1-4-2002 to 31-3-2005.

Notes : The notified Association is advised to apply in triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income Tax/ Director of Income Tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 79/2003/F. No. 203/20/2003/ITA-II]

SANDEEPA GUPTA, Director (ITA-II)

नई दिल्ली, 9 अप्रैल, 2003

(आयकर)

का. आ. 1224.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार अधोलिखित संगठन को उनके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (II) के प्रयोजनार्थ संघ श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती हैः—

- (i) अधिसूचित संघ अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगा,
- (ii) अधिसूचित संघ प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग, “टेक्नोलॉजी भवन”, न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा,
- (iii) अधिसूचित संघ केन्द्र सरकार की तरफ से नामोददिए निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के सम्बंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट), 10 मिडिलटन रोड, पांचवां तल, कलकत्ता-700071, (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग, तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स पूना मेडिकल रिसर्च फाउंडेशन, 40, सास्सून रोड, पूणे-411001	1-4-2001 से 31-3-2004

टिप्पणी: अधिसूचित संघ को सलाह दी जाती है कि वे अनुमोदन के नवीकरण के लिए तीन प्रतिवेदनों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतिवेदन सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 80/2003/फा. सं. 203/19/2003/आयकर नि.- II]

संगीता गुप्ता, निदेशक (आयकर नि.-II)

New Delhi, the 9th April, 2003

(INCOME TAX)

S.O. 1224.— It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned against its name, for the purpose of clause (ii) of Sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income Tax Rules, 1962 under the category "Association" subject to the following conditions :—

- (i) The notified Association shall maintain separate books of accounts for its research activities;
- (ii) The notified Association shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- (iii) The notified Association shall submit, on behalf of the Central Government, to (a) the Director General of Income Tax (Exemptions), 10 Middleton Row, 5th Floor, Kolkata-700071, (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income Tax/Director of Income Tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its Audited Annual Accounts and also a copy of Audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income Tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S. No.	Name of the organisation approved	Period for which Notification is effective
1.	M/s Poona Medical Research Foundation 40, Sassoon Road, Pune-411001	1-4-2001 to 31-3-2004

Notes : The notified Association is advised to apply in triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 80/2003/F. No. 203/19/2003/ITA-II]

SANDEEP GUPTA, Director (ITA-II)

नई दिल्ली, 16 अप्रैल, 2003

(आयकर)

का. आ. 1225—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार अधोलिखित संगठन को उनके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (II) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती है :—

- (i) अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगा,
- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिपोर्ट प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग, "टेक्नोलॉजी भवन", न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा,
- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोददिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के सम्बंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संस्था पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छट), 10 मिडिलटन रोड, पांचवां तल, कलकत्ता-700071, (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग, तथा (ग) औद्योगिक अनुसंधान विभाग, आयुक्त/आयकर निदेशक (छट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैरसर्स कल्याणी गोरक्षण ट्रस्ट 240-एफ शनिवार पैठ, कल्याणी बिल्डिंग, ताल कराड-415110 जिला सतारा (महाराष्ट्र राज्य)	1-4-2000 से 31-3-2003

टिप्पणी: अधिसूचित संस्था को सलाह दी जाती है कि वे अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन चप्ट की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 85/2003/फा. सं. 203/23/2003/आयकर नि.- II]

संगीता गुप्ता, निदेशक (आयकर नि.-II)

New Delhi, the 16th April, 2003
(INCOME TAX)

S.O. 1225.— It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned against the name, for the purpose of clause (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961, read with Rule 6 of the Income-tax Rules, 1962 under the category “Institution” subject to the following conditions:—

- (i) The notified Institution shall maintain separate books of accounts for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, ‘Technology Bhawan’, New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- (iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income-tax (Exemptions), 10 Middleton Row, 5th Floor, Kolkata-700071, (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income-tax/Director of Income-tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income and Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income-tax Act, 1961 in addition to the return of income-tax to the designated assessing officer.

S.No.	Name of the organisation Approved	Period for which Notification is effective
1.	M/s Kalyani Gorakshan Trust, 240 F, Shaniwar Peth, Kalyani Building, Tal. Karad-415110 Distt. Satara, (Maharashtra State)	1-4-2000 to 31-3-2003

Note: The notified Institution is advised to apply in triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income-tax/Director of Income-tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 85/2003/F. No. 203/23/2003/ITA-II]

SANGEETA GUPTA, Director (ITA-II)

नई दिल्ली, 16 अप्रैल, 2003

(आयकर)

का. आ. 1226.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार अद्योलिखित संगठन को उनके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम 1961 की धारा 35 की उपधारा (1) के खंड (iii) के प्रयोजनार्थ “संस्था” श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती है:—

- (i) अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगा,
- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गति-विधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग “टेक्नोलॉजी ब्यूरो” न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा,
- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोदिस्त निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के सम्बंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रोड, पांचवां तल, कलकत्ता-700071, (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग, तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	ठाकुर रिसर्च फाउंडेशन, 212, दीनदयाल मार्ग, नई दिल्ली-110002	1-4-2000 से 31-3-2003

टिप्पणी: अधिसूचित संस्था को सलाह दी जाती है कि वे अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियों सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 86/2003/फा. सं. 203/23/2002/आयकर नि.- II]
संगीता गुप्ता, निदेशक (आयकर नि.- II)

New Delhi, the 16th April, 2003
(INCOME TAX)

S.O. 1226.— It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned against its name, for the purpose of clause (iii) of Sub-section (1) of Section 35 of the Income-tax Act, 1961, read with Rule 6 of the Income-tax Rules, 1962 under the category "Institution" subject to the following conditions:—

- (i) The notified Institution shall maintain separate books of accounts for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- (iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income-tax (Exemptions), 10 Middleton Row, 5th Floor, Kolkata-700071, (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income-tax/Director of Income-tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income and Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income-tax Act, 1961 in addition to the return of income-tax to the designated assessing officer.

S No.	Name of the organisation Approved	Period for which Notification is effective
1.	Thakur Research Foundation, 212, Deen Dayal Marg, New Delhi-110002	1-4-2000 to 31-3-2003

Note: The notified Institution is advised to apply in triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income-tax/ Director of Income-tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 86/2003/F. No. 203/23/2002/ITA-II]

SANGEETA GUPTA, Director (ITA. II)

नई दिल्ली, 16 अप्रैल, 2003

(आयकर)

का. आ. 1227.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार अद्योलिखित संगठन को उनके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमाबली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती है:—

- (i) अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगा,
- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गति-विधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग "टेक्नोलॉजी भवन" न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा,
- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोदिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के सम्बंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संस्था पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट), 10 मिडिलटन रो, पांचवां तल, कलकत्ता-700071, (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग, तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	सैन्ट्रल पावर रिसर्च इंस्टीट्यूट, पी०बी०न० 8066, न्यू बेल रोड, आर०एम०बी०एक्सटेंशन स्टेज-II, डाकघर बंगलौर-560080	1-4-2000 से 31-3-2002

टिप्पणी: अधिसूचित संस्था को सलाह दी जाती है कि वे अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 87/2003/फा. सं. 203/64/2003/आयकर नि.- II]

संगीता युपा, निदेशक (आयकर नि.- II)

New Delhi, the 16th April, 2003

(INCOME TAX)

S.O. 1227.— It is hereby notified for general information that the organisation mentioned below have been approved by the Central Government for the period mentioned against their names, for the purpose of clause (ii) of Sub-section (1) of Section 35 of the Income tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 under the category "Institution" subject to the following conditions:—

- (i) The notified Institution shall maintain separate books of accounts for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- (iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Kolkata-700071, (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S.No.	Name of the organisation approved	Period for which Notification is effective
1.	Central Power Research Institute, P.B. No. 8066, New BEL Road, RMV Extension, State II PO, Bangalore-560080	1-4-2001 to 31-3-2002

Note: The notified Institution is advised to apply in triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax/ Director of Income tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 87/2003/F.No.203/64/2000-ITA-II]

SANDEEPA GUPTA, Director (ITA-II)

नई दिल्ली, 16 अप्रैल, 2003

(आयकर)

का. आ. 1228.— सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार अधोलिखित संगठन को उनके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (iii) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती है:—

- (i) अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगा,
- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिपोर्ट प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टेक्नोलॉजी भवन' न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा,
- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोदिस्त निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों जिसके लिए आयकर अधिनियम, 1961 की धारा 35 पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रोड, पांचवां तल, कलकत्ता-700071, (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग, तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्र सं. अनुमोदित संगठन का नाम

अवधि जिसके लिए अधिसूचना प्रभावी है

1. इंडिया हैरिटेज रिसर्च फाउंडेशन परमार्थ
मंदिर परिसर 207/7, कृष्णा नगर, सफदरजंग इन्क्लेव,
नई दिल्ली-110029

1-4-2000 से 31-3-2003

टिप्पणी: अधिसूचित संस्था को सलाह दी जाती है कि वे अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 88/2003/फा. सं. 203/40/2001-आयकर नि.-II]

संगीता गुप्ता, निदेशक (आयकर नि.-II)

New Delhi, the 16th April, 2003

(INCOME TAX)

S.O. 1228.— It is hereby notified for general information that the organisations mentioned below has been approved by the Central Government for the period mentioned against their names, for the purpose of clause (iii) of Sub-Section (1) of Section 35 of the Income tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 under the category “Institution” subject to the following conditions :—

- (i) The notified Institution shall maintain separate books of accounts for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, ‘Technology Bhawan’, New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- (iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Kolkata-700071, (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S.No.	Name of the organisation approved	Period for which Notification is effective
1.	India Heritage Research Foundation Parmarth Mandir Premises, 207/7 Krishna Nagar, Safdarjung Enclave, New Delhi-110029	1-4-2001 to 31-3-2003

Note : The notified Institution are advised to apply in triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 88/2003/F.No.203/40/2001-ITA-II]

SANGEETA GUPTA, Director (ITA-II)

नई दिल्ली, 16 अप्रैल, 2003

(आयकर)

का. आ. 1229.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार अधोलिखित संगठन को उनके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (I) के खंड (ii) के प्रयोजनार्थ “संस्था” श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती है:—

(i) अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगा,

(ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग “टेक्नोलॉजी भवन” न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा;

(iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोददिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों जिसके लिए आयकर अधिनियम, 1961 की धारा 35 को उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के सम्बंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडलटन रो, पांचवां तल, कोलकाता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैमर्स दि चाईल्ड ट्रस्ट मेडिकल रिसर्च फाउंडेशन, 12-ए, नागेश्वर रोड, नुगाम्बक्कम, चेन्नई-34	1-4-2000 से 31-3-2003

टिप्पणी: अधिसूचित संस्था को सलाह दी जाती है कि वे अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 89/2003/फा. सं. 203/11/2002/आयकर नि.-II]

संगीता गुप्ता, निदेशक (आयकर नि.-II)

New Delhi, the 16th April, 2003

(INCOME TAX)

S.O. 1229.—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned, against the name, for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income Tax Rules, 1962 under the category “Institution” subject to the following conditions :—

- The notified Institution shall maintain separate books of accounts for its research activities;
- The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific and Industrial Research, ‘Technology Bhawan’, New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year ;
- The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Kolkata-700071, (b) the Secretary, Department of Scientific and Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of Section 35 of Income tax Act, 1961 in addition to the return of Income tax to the designated assessing officer.

S.No.	Name of the Organisation Approved	Period for which Notification is effective
1.	M/s. The Childs Trust Medical Research Foundation, 12-A, Nageswara Road, Nungambakkam, Chennai-34	1-4-2000 to 31-3-2003

Notes :—The notified Institution is advised to apply in triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax/ Director of Income tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 89/2003/F.No. 203/11/2002/ITA. II]

नई दिल्ली, 16 अप्रैल, 2003

(आयकर)

का.आ. 1230.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार अधोलिखित संगठन को उनके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (iii) के प्रयोजनार्थ संस्था त्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती है :—

- (i) अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगा,
- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टैक्नोलॉजी भवन' न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा,
- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोदिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संस्था पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडलटन रोड, पांचवां तल, कलकत्ता-700071, (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्रम सं. अनुमोदित संगठन का नाम

अवधि जिसके लिए अधिसूचना प्रभावी है

1. मैसर्स मद्रास स्कूल ऑफ इकोनामिक्स,

1-4-2002 से 31-3-2005

गांधी मन्द्रापर्ण रोड,

चैनई-600025

टिप्पणी :—अधिसूचित संस्था को सलाह दी जाती है कि वे अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 90/2003/फा. सं. 203/21/2003/आयकर नि.-II]

संगीता गुप्ता, निदेशक (आयकर नि.-II)

New Delhi, the 16th April, 2003

(INCOME TAX)

S.O. 1230.—It is hereby notified for general information that the organisations mentioned below have been approved by the Central Government for the period mentioned against their names, for the purpose of clause (iii) of sub-Section (1) of section 35 of the Income tax Act, 1961, read with Rule 6 of the Income-tax Rules, 1962 under the category "Institution" subject to the following conditions :—

- (i) The notified Institution shall maintain separate books of accounts for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific and Industrial Research, 'Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- (iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income-tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071, (b) the Secretary, Department of Scientific and Industrial Research, and (c) the Commissioner of Income-tax/Director of Income tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income and Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of section 35 of Income-tax Act, 1961 in addition to the return of Income-tax to the designated assessing officer.

S No.	Name of the organisation approved	Period for which Notification is effective
1.	M/s Madras School of Economics, Gandhi Mandapam Road, Chennai-600 025	1-4-2002 to 31-3-2005

Note: The notified Institution are advised to apply in triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income-tax/Director of Income-tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 90/2003/F. No.203/21/2003-ITA-II]

SANGEETA GUPTA, Director (ITA. II)

नई दिल्ली, 16 अप्रैल, 2003

(आयकर)

का.आ. 1231.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार अधिसूचित संगठन को उनके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ संस्था श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती है :—

- (i) अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगा,
- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गति-विधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टेक्नोलॉजी भवन' न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा,
- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोदिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संस्था पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रोड, पांचवां तल कलकत्ता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्रम सं. अनुमोदित संगठन का नाम

अवधि जिसके लिए अधिसूचना प्रभावी है

ब्रीच कैन्डी मेडिकल रिसर्च सेन्टर,

1-4-2000 से 31-3-2003

60, भूलाभाई देसाई रोड,

मुम्बई-400026

टिप्पणी :—अधिसूचित संस्था को सलाह दी जाती है कि वे अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 91/2003/फा. सं. 203/3/2002/आयकर नि.-II]

संगीता गुप्ता, निदेशक (आयकर नि.-II)

New Delhi, the 16th April, 2003

(INCOME TAX)

S.O. 1231.—It is hereby notified for general information that the organisations mentioned below have been approved by the Central Government for the period mentioned against their names, for the purpose of clause (ii) of sub-section (1) of section 35 of the Income tax Act, 1961, read with Rule 6 of the Income-tax Rules, 1962 under the category "Institution" subject to the following conditions:—

- (i) The notified Institution shall maintain separate books of accounts for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;

(iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Kolkata-700071, (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S. No.	Name of the organisation approved	Period for which Notification is effective
1.	Breach Candy Medical Research Centre, 60, Bhulabhai Desai Road, Mumbai-400026	1-4-2000 to 31-3-2003

Note:—The notified Institution is advised to apply in triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 91/2003/F. No. 203/3/2002-ITA-II]
SANGEETA GUPTA, Director (ITA. II)

नागर विमानन मंत्रालय

नई दिल्ली, 7 अप्रैल, 2003

का.आ. 1232.—केन्द्र सरकार, भारतीय विमानपत्तन प्राधिकरण अधिनियम, 1994 (1994 की सं. 55) के खंड 3 में प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय विमानपत्तन प्राधिकरण के श्री वी. डी. वी. प्रसाद राव, सदस्य (वित्त) के कार्यकाल को एतद्वारा 5 अक्टूबर, 2002 से आगे पांच वर्ष की अवधि तक, उनकी आयु 60 वर्ष की होने तक या अगले आदेशों तक, जो भी पहले हो, और आगे बढ़ाती है।

[सं. ए. वी.-24011/004/2002-भा.वि.प्रा.]
के. रामाकृष्णन, अवर सचिव

MINISTRY OF CIVIL AVIATION

New Delhi, the 7th April, 2003

S.O. 1232—In exercise of the powers conferred by Section 3 of the Airports Authority of India Act, 1994 (No. 55 of 1994) the Central Government hereby extends the tenure of Shri V.D.V. Prasad Rao, Member (Finance), Airports Authority of India for a further period of five years beyond 5th October, 2002 till his attaining the age of 60 years or until further orders, whichever event occurs the earliest.

[No. AV-24011/004/2002-AAI]

K. RAMAKRISHNAN, Under Secy.

नई दिल्ली, 7 अप्रैल, 2003

का.आ. 1233.—केन्द्र सरकार, भारतीय विमानपत्तन प्राधिकरण अधिनियम, 1994 (1994 की सं. 55) के खंड 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय विमानपत्तन प्राधिकरण के श्री के. रामलिंगम, सदस्य (योजना) के कार्यकाल को एतद्वारा 26 अक्टूबर, 2002 से आगे चार वर्ष की अवधि तक, उनकी आयु 60 वर्ष की होने तक या अगले आदेशों तक, जो भी पहले हो, और आगे बढ़ाती है।

[सं. ए. वी.-24011/007/2002-भा.वि.प्रा.]
के. रामाकृष्णन, अवर सचिव

New Delhi, the 7th April, 2003

S.O. 1233—In exercise of the powers conferred by Section 3 of the Airports Authority of India Act, 1994 (No. 55 of 1994) the Central Government hereby extends the tenure of Shri K. Ramalingam, Member (Planning), Airports Authority of India for a further period of five years beyond 26th October, 2002 till his attaining the age of 60 years or until further orders, whichever event occurs the earliest.

[No. AV-24011/007/2002-AAI]

K. RAMAKRISHNAN, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

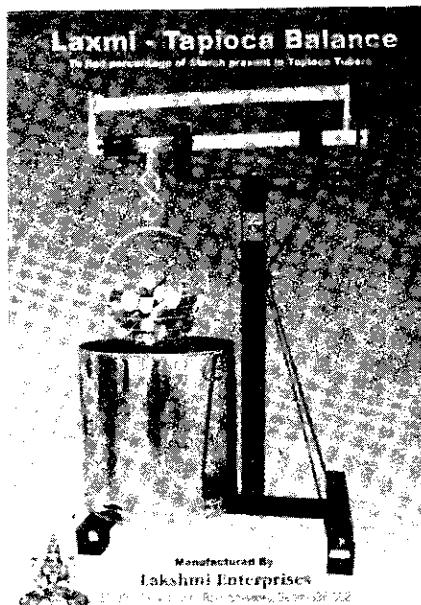
(उपभोक्ता मामले विभाग)

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1234.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स लक्ष्मी इन्टरप्राइजिज, 52/32ए, वेंकटापन रोड शेवापेट, सेलम, 636005 द्वारा विनिर्मित साधारण यथार्थता वर्ग (यथार्थता वर्ग 3) वाले “एल ई-5” शृंखला के स्वतः सूचक अस्वचालित, यांत्रिक अनुरूप सूचन सहित तोलन उपकरण (प्लेटफार्म स्टील यार्ड टाइप) के मॉडल का, जिसके ब्रांड का नाम “लक्ष्मी” है (जिसे इसमें पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2002/122 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) तोलन उपकरण है। इसकी अधिकतम क्षमता 5 कि.ग्रा. और न्यूनतम क्षमता 100 ग्राम है। सत्यापन मापमान अन्तराल (ई) का मान 10 ग्रा. है। यह कैसैवा (टापायाका) द्यूबर में स्टार्च अंतर्वस्तु को अवधारित करने के लिए आशयित है। मुद्रा लगाना : स्टाम्प प्लेट आजापक घोषणा सहित सत्यापन स्टाम्प/मुद्रा के सत्यापन के लिए मशीन पर लगाई गई है। इसके अतिरिक्त शेष मर्दे और पद्धति मुद्रा लगाने वाला सन्तोल कपटपूर्ण को रोकने के लिए मुद्रांकित किया जाए।



और, केन्द्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 5 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है।

[फा. सं. डब्ल्यू. एम.-21(139)/2000]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

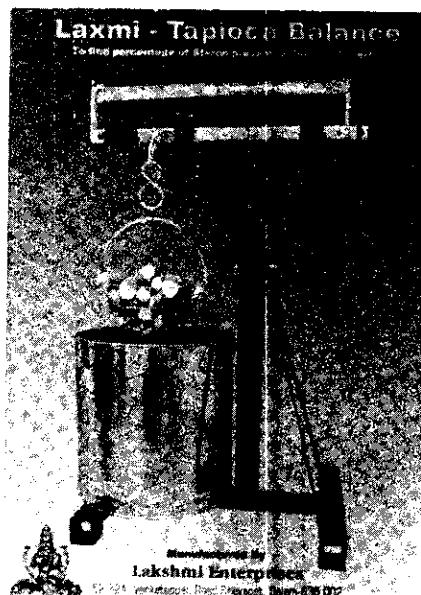
(Department of Consumer Affairs)

New Delhi, the 17th April, 2003

S.O. 1234.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of the self indicating non-automatic Mechanical (Platform Steel yard type) weighing instrument with analogue indication of "LE-5" series of Ordinary accuracy (Accuracy Class III) and with brand name "LAXMI" (hereinafter referred to as the said model, manufactured by M/s. Lakshmi Enterprises, 52/32A, Venkatappan Road, Shevapet, Salem-636004 and which is assigned the approval mark IND/09/2002/122;

The said model (See figure given below) is a weighing instrument with a maximum capacity of 5 kg and minimum capacity of 100g. The verification scale interval (e) is 10g. It is intended for determining the starch content in Cassava (Topioca) tuber. Sealing : A stamping plate is fixed on the machine for verification stamp/seal with mandatory declaration. In addition the balance ball and sliding poise be sealed to prevent fraudulent practices.



Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, and performance of same series with maximum capacity up to 5 kg manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21(139)/2000]

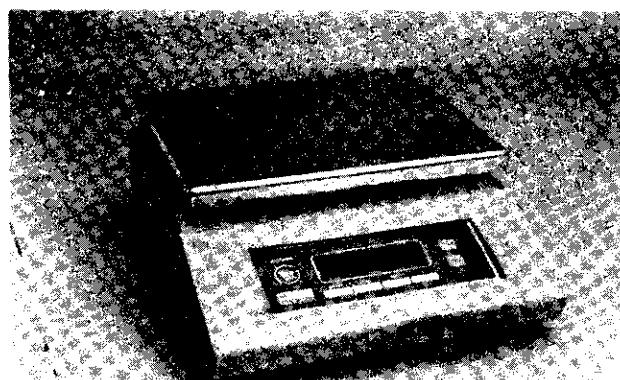
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1235.—केन्द्रीय सरकार का विहित प्राधिकरी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स बी-बाइटे माइक्रो सिस्टम, 202, नंदन कम्पलेक्स, नटराज रेलवे क्रासिंग के सामने मिथखली, अहमदाबाद-380006 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग 3) वाले “डब्ल्यू बी” शृंखला के स्वतः सूचक अस्वचालित, अंकक सूचन सहित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “बी बाइटे” है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2002/121 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल (आकृति देखें) भार सेल पर आधारित दोहरे रेज का तोलन उपकरण है इसकी अधिकतम क्षमता 12 कि.ग्रा. है और न्यूनतम क्षमता 20 ग्राम है। सत्यापन मापमान अन्तराल (ई) का मान 6 कि. ग्रा. तक 1 ग्रा. और 6 कि.ग्रा. से अधिक और 12 कि.ग्रा. तक 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शात प्रतिशत व्यवकलनात्मक धरित आधेयतुलन प्रभाव है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है। मुद्रांकन : कपटपूर्ण उपयोग से बचने के लिए स्टेम्पिंग प्लेट के निकट सूचक के पृष्ठ भाग पर अंतिरिक्त मुद्रांकन बिन्दु की व्यवस्था की गई है।



और, केन्द्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है और जिनके सत्यापन मापमान अन्तराल (एन) की अधिकतम संख्या 100 मि.ग्रा. से 2 ग्रा. के “ई” मान के लिए 100 से 10,000 के रेंज में है तथा 5 ग्रा. या इससे अधिक के “ई” मान के लिए 500 से 10,000 रेंज में है तथा जिनका “ई” मान 1×10 के, 2×10 के या 5×10 के है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(77)/2000]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

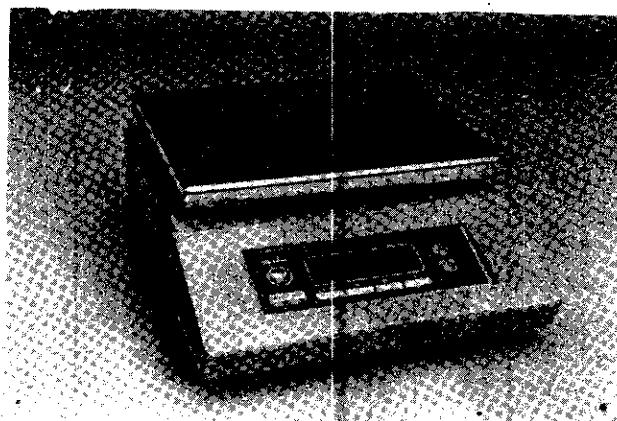
New Delhi, the 17th April, 2003

S.O. 1235.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the self-indicating, non-automatic, (Table top type) weighing instrument with digital indication of "WB" series of Medium accuracy (Accuracy Class III) and with brand name "WEI-BYTE" (herein referred to as the Model), manufactured by M/s. Wei-Byte Micro System, 202, Nandan Complex, Opp. Natraj Railway crossing, Mithkhalli, Ahmedabad-380 006 and which is assigned the approval mark IND/09/2002/121;

The said model (see the figure given) is a load cell based dual range—weighing instrument with a maximum capacity of 12 kg and minimum capacity of 20g. The verification scale interval (e) is 1g upto 6 kg and 2 g above 6 kg and upto 12 kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply;

Sealing : Additional sealing point is provided on the rear side of the indicator near stamping plate to avoid fraudulent use. In addition to sealing the stamping plate, sealing may also be done to prevent the opening of the Machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of the said Section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity upto 50 kg and with number of verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg to 2g and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 g or more and with 'e' value 1×10^k , 2×10^k , or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(77)/2000]

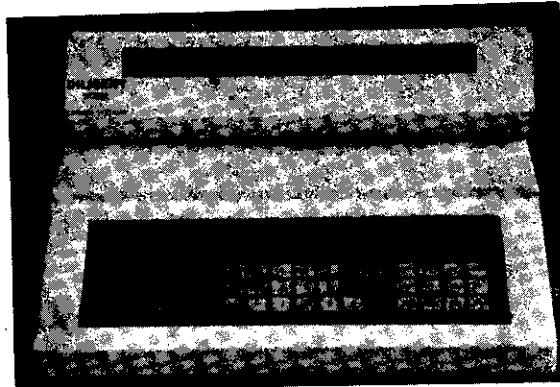
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1236.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स कोरोना सिस्टम्स, सावन्ना प्लाजा, प्रथम तल, एस.सं. 21/2 बालाजी नगर, निकट धनकावाड़ी पेट्रोल पम्प, पुणे-411043 द्वारा विनिर्मित मल्टी लोड सेल टाइप वे-ब्रिज यथार्थता वर्ग (यथार्थता वर्ग 3) वाले “डी एक्स डब्ल्यू” शृंखला के अस्वचालित, अंकक सूचन सहित तोलन उपकरण के मॉडल का, जिसके ब्रांड का नाम “डिलिजेन्ट” है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन विह आई एन डी/09/2002/35 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह मॉडल वे-ब्रिज/बहु भारसेल का अस्वचालित तोलन उपकरण पर आधारित एक तनाव गेज भार सेल प्रकार का है जिसकी अधिकतम क्षमता 30 टन और न्यूनतम क्षमता 100 कि.ग्रा. है और यह मध्यम यथार्थता वर्ग (यथार्थता वर्ग-3) का है। सत्यापन मापमान (ई) का मान 5 कि.ग्रा. है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड प्रकार का है। उपकरण 230 वोल्ट और 50 हर्ड्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 5 टन से अधिक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) की संख्या 5 कि.ग्रा. या अधिक के “ई” मान के लिए 500 से 10,000 के रेंज में है तथा जिनका “ई” मान 1×10^8 , 2×10^8 या 5×10^8 है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू. एम.-21(36)/2001]

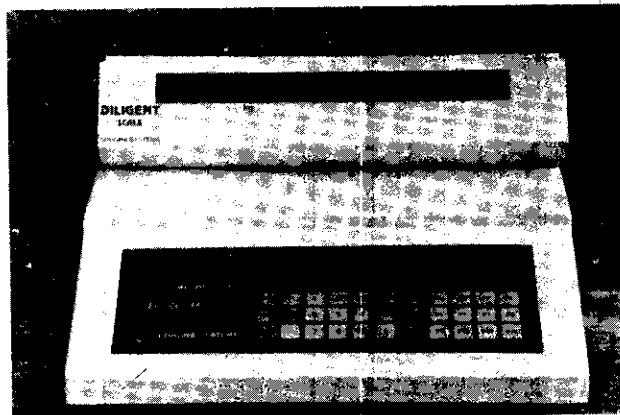
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1236.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the non-automatic weighing instrument with digital indication (Multiload cell type weighbridge), of DXW series (hereinafter referred to as the Model) belonging to medium accuracy (accuracy class-III) and with brand name "DILIGENT" manufactured by M/s. Corona Systems, Sawant Plaza, First Floor, S.No. 21/2, Balaji Nagar, Near Dhanakwadi Petrol Pump, Pune-411 043 and which is assigned the approval mark IND/09/2002/35;

The said model is a strain gauge load cell based non-automatic weighing instrument of multiload cell type weighbridge of maximum capacity 30 tonne, minimum capacity 100 kg and belonging to medium accuracy class (accuracy class-III). The value of verification scale interval (e) is 5kg. The display unit is of light emitting diode type. The instrument operates on 230V, 50Hz alternative current power supply.



Further, in exercise of the power conferred by Sub-section (12) of the Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne with verification interval value of 5 kg or above and number of verification scale interval (n) in the range of 500 to 10000 and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model have been manufactured.

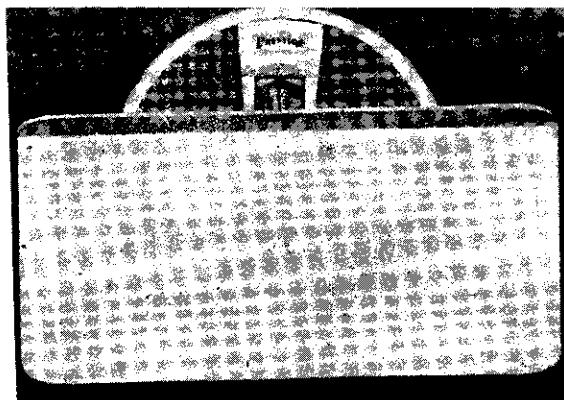
[F. No. WM-21(36)/2001]
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1237.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपर्योगों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स हार्डिंग मेडी-टेक, 30/6, इंदिरा विकास कालोनी, दिल्ली-110009 द्वारा विनिर्मित सामान्य यथार्थता (यथार्थता धर्ग 4) वाले सदृश्य उपदर्शन (बेबी-कम-चाइल्ड तोलन पैमाना) के अस्वचालित तोलन उपकरण के मॉडल का, जिसके ब्रांड का नाम “प्रेस्टिज” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2002/68 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

उक्त मॉडल स्लिंग पर आधारित तोलन उपकरण है जिसकी अधिकतम क्षमता 25 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का भान 100 ग्रा. है। डायल पर सूचक द्वारा माप के परिणाम उपदर्शित होते हैं।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 25 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है और जिनके सत्यापन मापमान अन्तराल (एन) 5 ग्राम या अधिक के “ई” भान के लिए 100 से 1,000 की रेंज में है तथा जिनका “ई” भान 1×10^4 , 2×10^4 या 5×10^4 है जिसमें के धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(58)/2001]

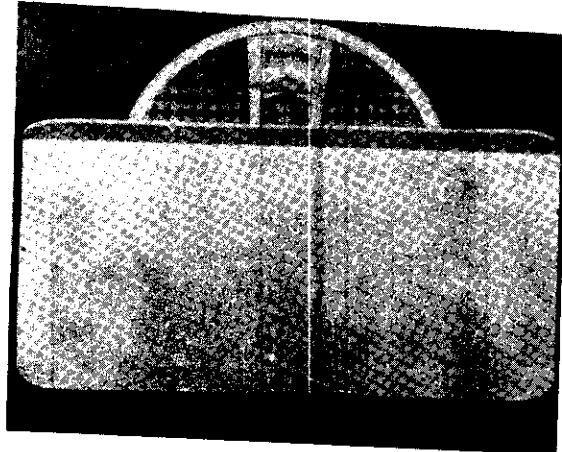
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1237.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of non-automatic, weighing instrument with analogue indication (baby-cum-child weighing scale) of ordinary accuracy (Accuracy class IV) with brand name "PRESTIGE" (hereinafter referred to as the Model), manufactured by M/s. Hardik Medi-Tech, 30/6, Indira Vikash Colony, Delhi-110009 and which is assigned the approval mark IND/09/2002/68;

The said model is a spring based weighing instrument with the maximum capacity of 25 kg. The verification scale interval (e) is 100g. The results of measurements are indicated by pointer on dial.



Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 25 kg. and with verification scale interval (n) in the range of 100 to 1,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number of equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which the approved Model has been manufactured.

[F. No. WM-21(58)/2001]

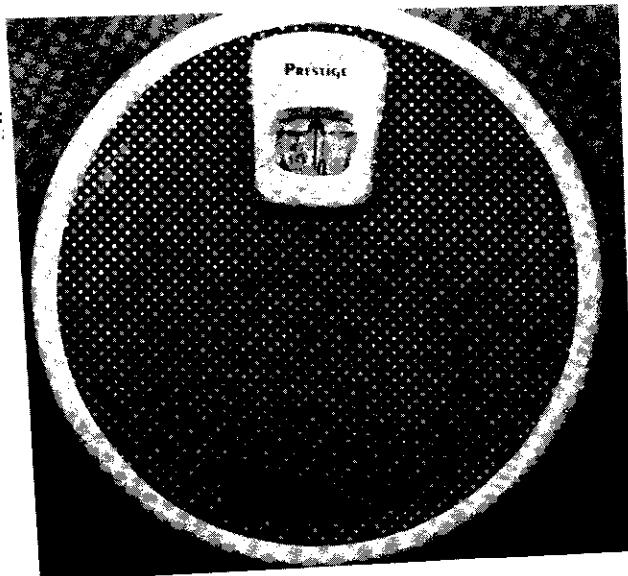
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1238.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपर्युक्तों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स हार्डिक मेडी-टेक, 30/6, इंदिरा विकास कालोनी, दिल्ली-110009 द्वारा विनिर्मित सामान्य यथार्थता (यथार्थता वर्ग 4) वाले सदृश्य उपदर्शन (वैयक्तिक तोलन पैमाने सहित) के अस्वचालित तोलन उपकरण के माडल का, जिसके ब्रांड का नाम “प्रेस्टिज” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2002/69 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

उक्त मॉडल (आकृति नीचे दी गई है) स्प्रिंग पर आधारित तोलन उपकरण है जिसकी अधिकतम क्षमता 150 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 500 ग्रा. है। डायल पर सूचक द्वारा माप के परिणाम उपदर्शित होते हैं।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 150 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है और जिनके सत्यापन मापमान अन्तराल (एन) 5 ग्राम के “ई” मान के लिए 100 से 1,000 की रेंज में है तथा जिनका “ई” मान 1×10^4 , 2×10^4 या 5×10^4 है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू. एम.-21(58)/2001]

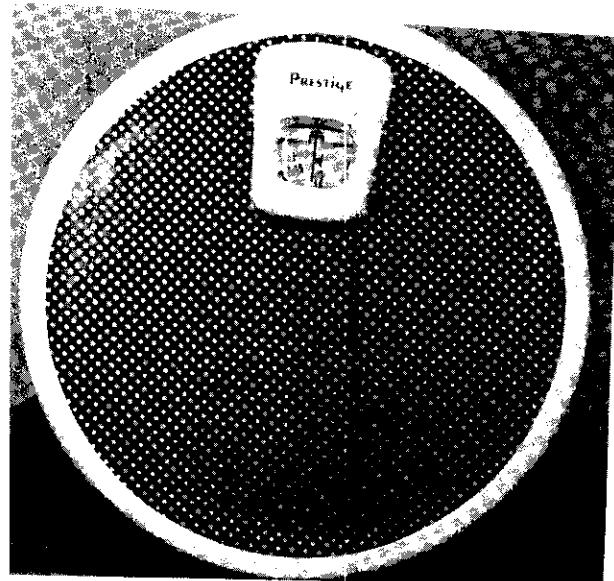
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1238.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of non-automatic, weighing instrument with analogue indication (Personal weighing scale) of ordinary accuracy (Accuracy class III) with brand name "Prestige" (hereinafter referred to as the Model), manufactured by M/s. Hardik Medi-Tech, 30/6, Indira Vikash Colony, Delhi-110009 and which is assigned the approval mark IND/09/2002/69;

The said model (figure given) is a spring based weighing instrument with the maximum capacity of 150 kg. The verification scale interval (e) is 500g. The results of measurements are indicated by pointer on dial.



Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity 150 kg with verification scale interval (n) in the range of 100 to 1,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model have been manufactured.

[F. No. WM-21(58)/2001]

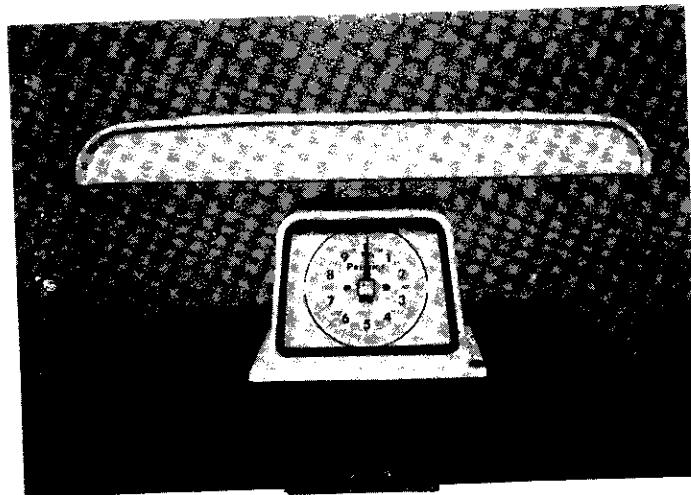
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1239.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बाट की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स हार्डिक मेडी-टेक, 30/6, इंदिरा विकास कालोनी, दिल्ली-110009 द्वारा विनिर्मित सामान्य यथार्थता (यथार्थता वर्ग 4 वाले सदृश्य उपदर्शन) (बेबी तोलन पैमाना) के अस्वचालित तोलन उपकरण के मॉडल का, जिसके ब्रॉड का नाम “प्रेस्टिज” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2002/67 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल स्थिरंग पर आधारित तोलन उपकरण है इसकी अधिकतम क्षमता 10 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 50 ग्रा. है। डायल पर सूचक द्वारा माप के परिणाम उपर्युक्त होते हैं।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 25 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है और जिनके सत्यापन मापमान अन्तराल (एन) 5 ग्राम या अधिक के “ई” मान के लिए 100 से 1,000 की रेंज में है तथा जिनका “ई” मान 1×10^4 , 2×10^4 या 5×10^4 है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(58)/2001]

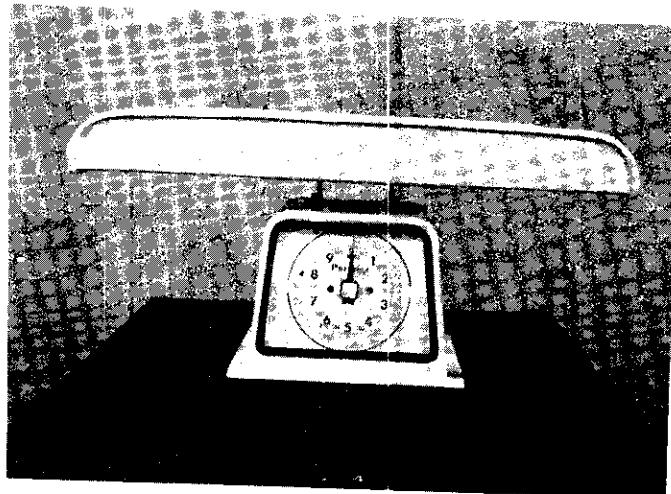
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1239.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of non-automatic, weighing instrument with analogue indication (baby weighing scale) ordinary accuracy (Accuracy class IV) and with brand name "PRESTIGE" (hereinafter referred to as the Model), manufactured by M/s. Hardik Medi-Tech, 30/6, Indira Vikash Colony, Delhi-110009 and which is assigned the approval mark IND/09/2002/67;

The said model is a spring based weighing instrument with the maximum capacity of 10 kg. The verification scale interval (e) is 50g. The results of measurements are indicated by pointer on dial.



Further, in exercise of the power conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity upto 25 kg and with verification scale interval (n) in the range of 100 to 1,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , k being positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model have been manufactured.

[F. No. WM-21(58)/2001]

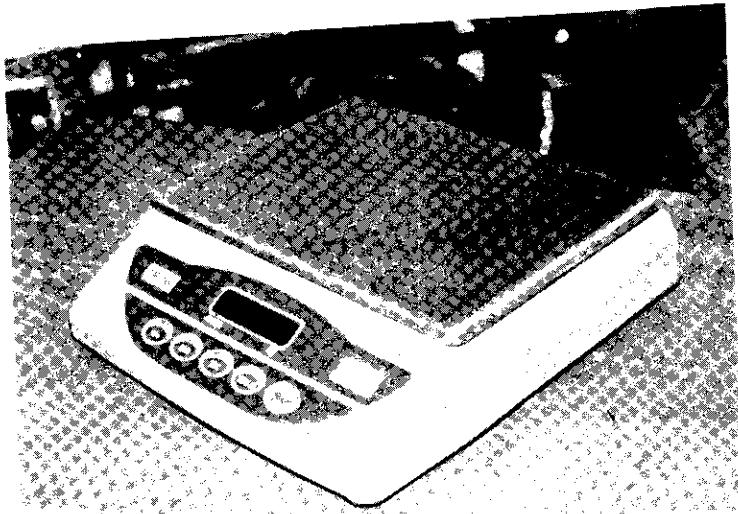
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1240.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सन्सुई इलैक्ट्रॉनिक्स, ओ एस-6, दूसरा तल, सप्ना गार्डन, अलटो पोर्टबोरियम, ब्रॉडेज, गोवा द्वारा विनिर्मित माध्यम यथार्थता वर्ग (यथार्थता वर्ग 3) वाले “एस एस पी” शृंखला के अस्वचालित अंकक सूचन सहित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम वाले “संसुई” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2002/06 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

उक्त मॉडल (दी गई आकृति देखें) भार सेल प्रौद्योगिकी पर आधारित अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) है। इसकी अधिकतम क्षमता 20 कि.ग्रा. और न्यूनतम क्षमता 40 ग्रा. है। सत्यापन मापमान (ई) का मान 2 ग्रा. है। इसमें एक आद्येयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आद्येयतुलन प्रभाव है। भारग्राही आयताकार सैक्षण का जिसकी भुजाएं 330 एम एम × 250 एम एम हैं। प्रकाश उत्सर्जक डायोड (एल सी डी) तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार उक्त धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का रेंज के हैं और 5 ग्रा. या इससे अधिक के “ई” मान के लिए 500 से 10,000 के रेंज में है तथा जिनका “ई” मान 1×10 के, 2×10 के या 5×10 के है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(149)/2001]

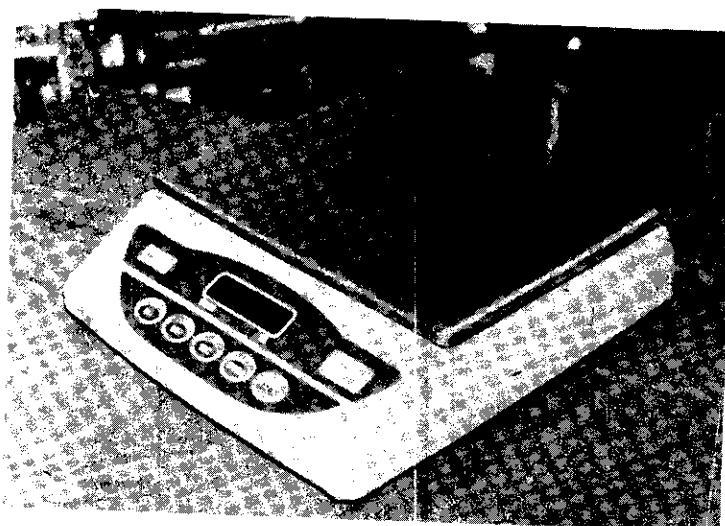
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1240.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the non-automatic weighing instrument (table top type) with digital indication belonging to medium accuracy (accuracy class III) of 'SSP' series with brand name "SANSUI" (hereinafter referred to as the model), manufactured by M/s. Sansui Electronics, OS-6, 11Ind Floor, Sapana Garden, Alto Porvorium, Bardez, Goa and which is assigned the approval mark IND/09/2002/06;

The said model (the figure given) is a non-automatic weighing instrument (table top type) based on load cell technology. The maximum capacity is 20kg and minimum capacity 40g. The value of verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of rectangular section of side 330mm x 250mm. The Light Emitting Diode (LED) indicates the weighing result. The instruments operates on 230V, 50Hz alternative current power supply.



Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g and with the number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more with 'e' value of 1×10^k , 2×10^k , or 5×10^k , k being a positive or negative whole number of equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model have been manufactured.

[F. No. WM-21(149)/2001]

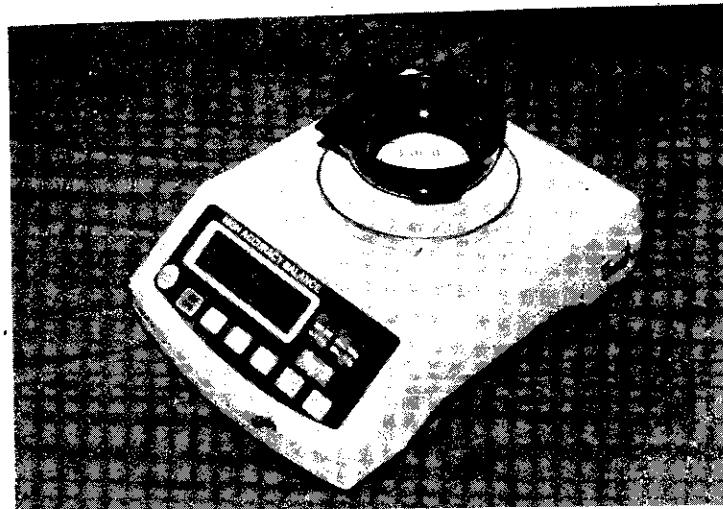
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1241.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपर्योग के अनुरूप है और इस बाट की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स सन्सुई इलैक्ट्रानिक्स, आ० एस-६, दूसरा तल, सपना गार्डन, आल्टो पोर वोरियम, बांदेज, गोवा द्वारा विनिर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग 2) वाले "जे डब्ल्यू" शृंखला के अस्वचालित, अंकक सूचन सहित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "सन्सुई" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2002/05 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

उक्त मॉडल (दी गई आकृति देखें) द्यूनिंग फोर्क प्रौद्योगिकी पर आधारित अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) है। इसकी अधिकतम क्षमता 300 ग्रा. और न्यूनतम क्षमता 200 मि. ग्रा. है। सत्यापन मापमान (ई) का मान 10 मि. ग्रा. है। इसमें एक आद्येयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आद्येयतुलन प्रभाव है। भारग्राही 115 एम एम डायमीटर का है। प्रकाश उत्सर्जक डायोड (एल सी डी) तोलन परिणाम उपर्युक्त करता है। उपकरण 230 वोल्ट और 50 हर्ड्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार उक्त धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी भेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) की संख्या 1 मि. ग्राम से 50 मि. ग्रा. के "ई" मान के लिए 100 से 50,000 रिंज के हैं और 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 के रेंज में हैं तथा जिनका "ई" मान 1×10^4 , 2×10^4 या 5×10^4 है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू. एम.-21(149)/2001]

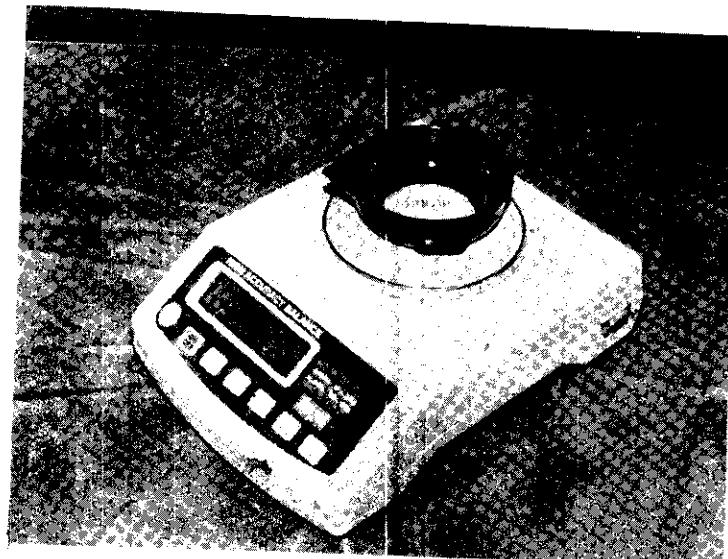
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विभाग

New Delhi, the 17th April, 2003

S.O. 1241.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the non-automatic weighing instrument (table top type) with digital indication belonging to high accuracy (accuracy class-II) of 'JW' series with brand name "SANSUI" (hereinafter referred to as the model), manufactured by M/s Sansui Electronics, OS-6, 11nd Floor, Sapana Garden, Alto Porvorium, Bardez, Goa and which is assigned the approval mark IND/09/2002/05;

The said Model (see the figure given) is a non-automatic weighing instrument (table top type) based on tuning fork technology. The maximum capacity is 300g and minimum capacity 200mg. The value of verification scale interval (e) is 10 mg. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of 115mm diameter. The Light Emitting Diode (LED) indicates the weighing result. The instruments operates on 230V, 50Hz alternative current power supply.



Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg with verification scale interval(n) in the range of 100 to 50,000 for 'e' value of 1mg to 50 mg and with the number of verification scale interval(n) in the range of 5,000 to 50,000 for 'e' value of 100mg or more with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which the approved model have been manufactured.

[F. No. WM-21(149)/2001]

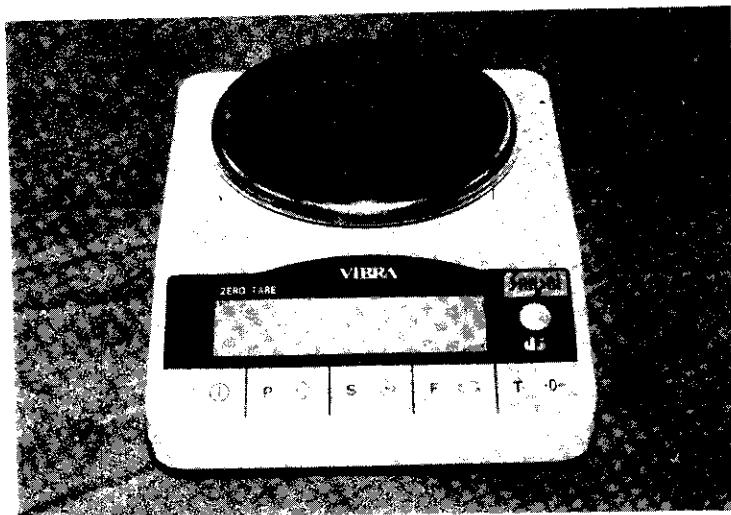
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1242.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल अपनी यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स सन्सुई इलैक्ट्रॉनिक्स, आई एस-6, दूसरा तल, सप्ना गार्डन, आल्टो पोर बोरियम, बार्डेज, गोवा द्वारा विनिर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग 2) वाले “विद्रा डी जे” शृंखला के अस्वचालित, अंकक सूचन सहित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “सन्सुई” है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2002/04 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

उक्त मॉडल (दी गई आकृति देखें) ट्यूनिंग फोर्क प्रौद्योगिकी पर आधारित अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) है। इसकी अधिकतम क्षमता 600 ग्रा. और न्यूनतम क्षमता 200 मि. ग्रा. है। सत्यापन मापमान (ई) का मान 10 मि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। भारग्राही 140 एम एम डायामीटर का है। द्रव क्रिस्टल प्रदर्श (एल सी डी) तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार उक्त धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 एक. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) की संख्या 1 मि. ग्राम से 50 मि. ग्रा. के “ई” मान के लिए 100 से 50,000 के रेज के हैं और 100 मि. ग्रा. या उससे अधिक के “ई” मान के लिए 5000 से 50,000 के रेज में हैं तथा जिनका “ई” मान 1×10^4 , 2×10^4 या 5×10^4 है जिसमें के धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(149)/2001]

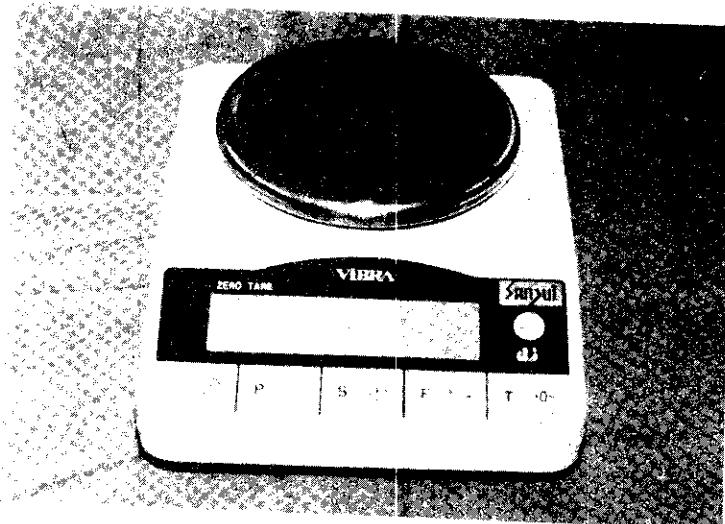
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1242.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the non-automatic weighing instrument (table top type) with digital indication belonging to high accuracy (accuracy class-II) of 'VIBRA DJ' series with brand name "SANSUI" (hereinafter referred to as the model), manufactured by M/s. Sansui Electronics, OS-6, 2nd Floor, Sapana Garden, Alto Porvorium, Bardez, Goa and which is assigned the approval mark IND/09/2002/04;

The said Model (see the figure given) is a non-automatic weighing instrument (table top type) based on tuning fork technology. The maximum capacity is 600g and minimum capacity 200mg. The value of verification scale interval (e) is 10 mg. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of 140 diameter. The liquid crystal display (LCD) indicates the weighing result. The instrument operates on 230V, 50Hz alternative current power supply.



Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg with verification scale interval(n) in the range of 100 to 50,000 for 'e' value of 1mg to 50 mg and with the number of verification scale interval(n) in the range of 5,000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which the approved model have been manufactured.

[F. No. WM-21(149)/2001]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1243.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स सन्सुई इलैक्ट्रॉनिक्स, ओ एस-6, दूसरा तल, सपना गार्डन, आल्टो पोर बोरियम, बार्डेज, गोवा द्वारा विनिर्मित विशेष यथार्थता वर्ग (यथार्थता वर्ग 1) वाले “विब्रा डी जे” शृंखला के अस्वचालित अंकक सूचन सहित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “सन्सुई” है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2002/03 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

उक्त मॉडल (दी गई आकृति देखें) ट्यूनिंग फोर्क प्रौद्योगिकी पर आधारित अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) है। इसकी अधिकतम क्षमता 3000 ग्रा. और न्यूनतम क्षमता 1 ग्रा. है। सत्यापन मापमान (ई) का मान 10 मि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। भारग्राही 140 एम एम डाया का है। द्रव क्रिस्टल प्रदर्श (एल सी डी) तोलन परिणाम उपर्दर्शित करता है। उपकरण 230 बोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय संरक्कार उक्त धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अन्तराल (एन) की संख्या 1 मि. ग्राम या उससे अधिक के “ई” मान के लिए 50,000 के बराबर या उससे अधिक है तथा जिनका “ई” मान 1×10^{24} , 2×10^{24} , या 5×10^{24} है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(149)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1243.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the non-automatic weighing instrument (table top type) with digital indication belonging to Special accuracy (accuracy class-I) of 'VIBRA DJ' series with brand name "SANSUI" (hereinafter referred to as the model), manufactured by M/s. Sansui Electronics, OS-6, 11nd Floor, Sapana Garden, Alto Porvorium, Bardez, Goa and which is assigned the approval mark IND/09/2002/03;

The said Model (the figure given) is a non-automatic weighing instrument (table top type) based on tuning fork technology. The maximum capacity is 3000g and minimum capacity 1g. The value of verification scale interval (e) is 10 mg. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of 140 diameter. The liquid crystal display (LCD) indicates the weighing result. The instruments operates on 230V, 50Hz alternative current power supply.



Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg with verification scale interval(n) in equal to or more than 50,000 for 'e' value of 1mg or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which the approved model has been manufactured.

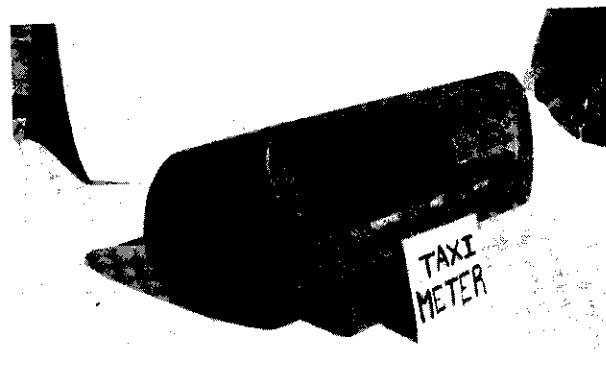
[F. No. WM-21(149)/2001]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1244.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभाषना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैंसर्स टाटा इंजीनियरी एंड लोकोमोटिव कम्पनी लिमिटेड, पिम्परी, पुणे-411018 द्वारा विनिर्मित “टी एम 02 वाई” शृंखला के अंकक सूचन सहित “टैक्सी मीटर” के माडल का, जिसके ब्रांड का नाम “टाटा इंजीनियरिंग” है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2002/32 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



उक्त “टैक्सी मीटर” मॉडल समय और दूरी मापने वाला उपकरण है जो यात्रा के किसी क्षण पर लगातार योग करता है और भाड़ा उपर्युक्त करता है, सार्वजनिक वाहन के यात्री द्वारा प्रभार, यात्रा की गई दूरी के मूल्य और निश्चित गति से कम लगे समय की अवधि, प्राधिकृत टैरिफ के अनुसार अनुपूरक प्रभार है।

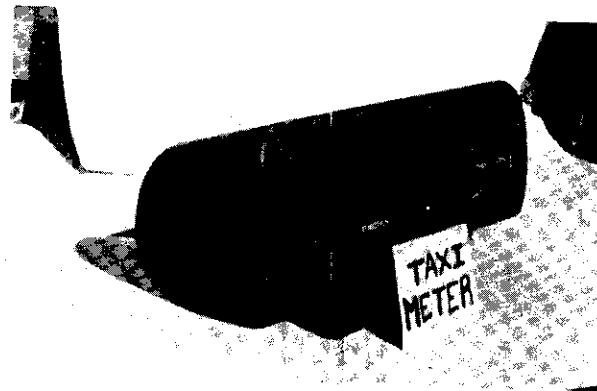
[फा. सं. डब्ल्यू. एम.-21(113)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1244.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of "Taxi Meter" with digital indication (hereinafter referred to as the Model) of "TM02y" series with brand name "TATA Engineering" manufactured by M/s. Tata Engineering and Locomotive Company Limited, Pimpri, Pune-411 018 and which is assigned the approval mark IND/09/2002/03;



The said Model "Taxi Meter" is a time and distance measuring instrument which totalizes continuously and indicate the fare, at any moment of journey, the charges payable by the passenger of a public vehicle as function of the distance travelled and below a certain speed the length of the time occupied, independent of supplementary charges according to the authorized tariffs.

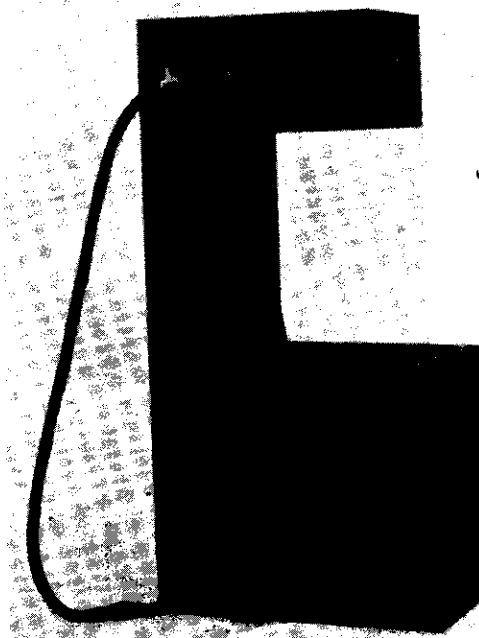
[F. No. WM-21(113)/2001]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1245.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे फिजिकिलश—टेकनीश्चे बुन्डेसेंस्टाल्ट, जो जर्मन में इस प्रयोजन के लिए अधिसूचित निकाय है, द्वारा अनुदत्त तथा अनुमोदित मूल्यांकन रिपोर्ट, परीक्षण रिपोर्ट तथा परीक्षण परिणाम सहित प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (3) के तीसरे परन्तुक और उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स फ्लुसिगास एन लाजेन जी एम बी एच पीनर स्ट्रीट 217-डी 38229 एल्जिटर/जर्मनी द्वारा विनिर्भित और मैसर्स आयल गैस प्लांट इंजीनियर्स (इंडिया) प्रा. लि. 108, चिरंजीव टावर, 43, नैहरु प्लेस, नई दिल्ली-110019 द्वारा भारत में विपणित दाबाधीन तरल गैस के लिए डिसपेन्सर (एल पी जी डिसपेन्सर) वाले “एफ ए एस 120, एफ ए एस 220, एफ ए एस 230,” शृंखला के मॉडल का, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/13/02/66 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



उक्त मॉडल दाबाधीन द्रवीकृत गैसों के लिए एक डिसपेन्सर है यह द्रवीकृत पेट्रोलियम गैस (दाबाधीन द्रवीकृत हाइड्रोकार्बन और उनके मिश्रण) के आयतन को मापने के लिए है। इसकी अधिकतम प्रवाह दर 50 लीटर/मिनट और न्यूनतम प्रवाह दर 5 लीटर/मिनट है। मापी गई न्यूनतम मात्रा 5 लीटर है। अधिकतम प्रचालन दबाव 25 बार है।

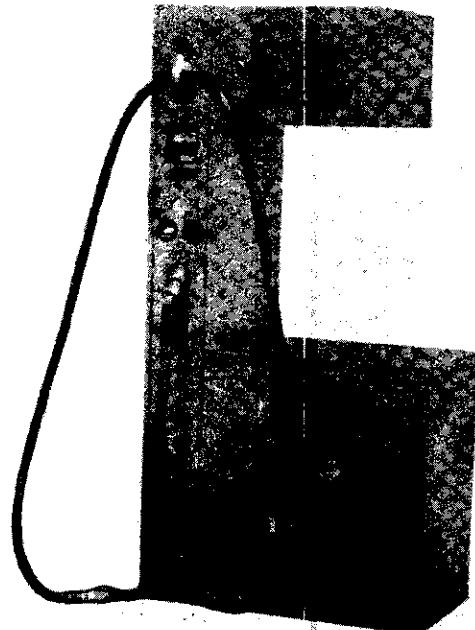
[फा. सं. डब्ल्यू. एम.-21(61)/2002]

ची. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1245.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, along with the pattern evaluation report and also the test report and the test results granted and approved by the Physikalisch—Technische Bundesanstalt, a notified body for the purpose in the Germany, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by the third proviso to Sub-sections (3) and Sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of model of dispensers for liquid gases under pressure (LPG Dispenser) "FAS 120, FAS 220 & FAS 230" series (hereinafter referred to as the model), manufactured by M/s Flussiggas-Anlagen GmbH, Peiner Str Be 217, D-38229, Salzgitter/Germany and marketed in India by M/s Oil & Gas Plant Engineers (India) Pvt. Ltd. 108, Chiranjiv Tower, 43, Nehru Place, New Delhi-110019 and which is assigned the approval mark IND/13/02/66;



The said Model is a dispenser for liquified gases under pressure. It is used for measuring the volume of liquified petroleum gas (Hydrocarbons liquified under pressure and their mixtures). Its maximum flow rate is 50 litres/minute and minimum flow rate is 5 litres/ minute. The minimum quantity measured is 5 litre. The maximum operating pressure is 25 bar.

[F. No. WM-21(61)/2002]

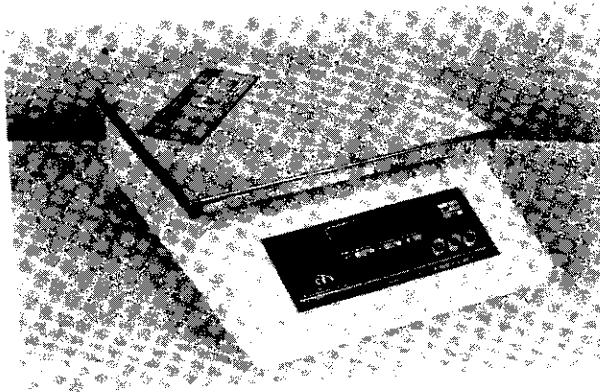
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1246.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपर्योगों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स आर टेक डिजिटल स्केल, 11 विसात कम्प्लेक्स रेखा भाई एस्टेट रोड, अम्बिका होटल के सामने सी टी एम चार रास्ता, अमरावाडी, अहमदाबाद-380026 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग 2) वाले “ए आर टी” शृंखला के अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके बांड का नाम “आर टेक” है (जिसे इसमें इसके पश्चात उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2002/51 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह मॉडल (आकृति देखें) उच्च यथार्थता वर्ग (यथार्थता वर्ग 2) का अंकक सूचन सहित भार सेल के सिद्धान्त पर कार्यरत टेबल टाप प्रकार का विकृति मेज टाइप भार सेल आधारित अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 22 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 2 ग्रा. है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड (एल ई डी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करती है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषण करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है और जिनके सत्यापन मापमान अन्तराल (एन) की अधिकतम संख्या 1 मि. ग्रा. से 50 मि. ग्रा. के “ई” मान के लिए 100 से 50,000 की रेंज में है और 100 मि. ग्रा. या इससे अधिक के “ई” मान के लिए 5000 से 50000 की रेंज में है तथा जिनका “ई” मान 1×10^4 , 2×10^4 , या 5×10^4 के हैं जिसमें के धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू. एम.-21(71)/2001]

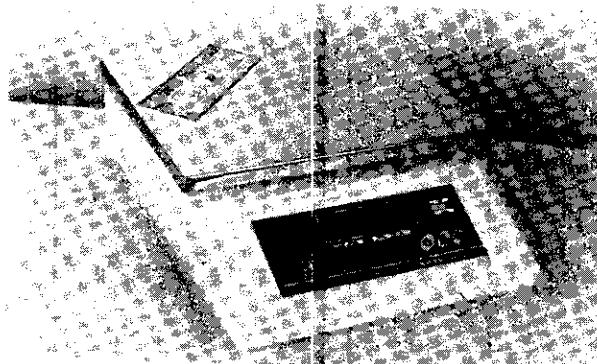
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1246.— Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) and (8) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the non-automatic weighing instrument (table top type) with digital indication (hereinafter referred to as the model), of "ART" series belonging to high accuracy (accuracy class-II) and with brand name "ARTECH" manufactured by M/s Artech Digital Scale, 11, Visat Complex, Revabhai Estate Road, Opp. Ambika Hotel, C.T.M. Char Rasta, Amraiwadi, Ahmedabad-380 026 and which is assigned the approval mark IND/09/2002/51;

The model is a strain gauge type load cell based non-automatic weighing instrument (table top type) working on the principle of load cell with digital indication of maximum capacity 22kg, minimum capacity 100g and belonging to high accuracy class (accuracy class-II). The value of verification scale interval (e) is 2g. The display unit is of light emitting diode (LED) type. The instruments operates on 230V, 50 Hz alternative current power supply.



Further, in exercise of the power conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg with verification scale interval(n) in the range of 100 to 50,000 for 'e' value of 1mg to 50 mg and with number of verification scale interval(n) in the range of 5000 to 50000 for 'e' value of 100mg or more and with 'e' value of 1×10^k , 2×10^k , 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model have been manufactured.

[F. No. WM-21(71)/2001]

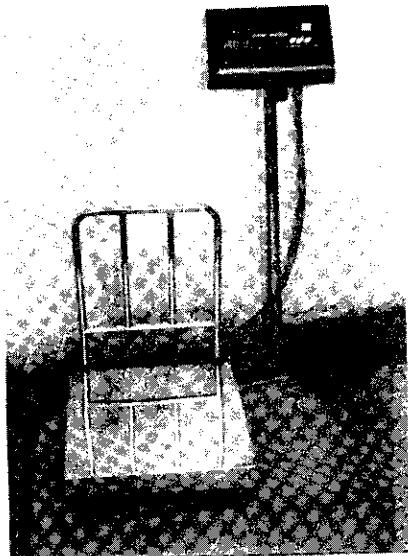
P. A. KRISHNAMOORTHY, Director Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1247.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल अपनी यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स आर टेक डिजिटल स्केल, 11 विसात कम्प्लेक्स रेल भाइ एस्टेट रोड, अम्बिका होटल के सामने सी टी एम चार रास्ता, अमरावाडी, अहमदाबाद-380026 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग 3) वाले “ए आर टी” शृंखला के अस्वचालित तोलन उपकरण (प्लेट फार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम “आर टेक” है (जिसमें इसके पश्चात उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2002/52 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह मॉडल (आकृति देखें) उच्च यथार्थता वर्ग (यथार्थता वर्ग 3) का अंकक सूचन सहित भार सेल के सिद्धान्त पर कार्यरत टेबल टाप प्रकार का विकृति गेज टाइप भार सेल आधारित अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 50 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 5 ग्रा. है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड (एल ई डी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 300 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है और जिनके सत्यापन मापमान अन्तराल (एन) की अधिकतम संख्या 5 ग्रा. या इससे अधिक के “ई” मान के लिए 500 से $10,000$ की रेंज में है तथा जिनका “ई” मान 1×10^4 , 2×10^4 या 5×10^4 के है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(71)/2001]

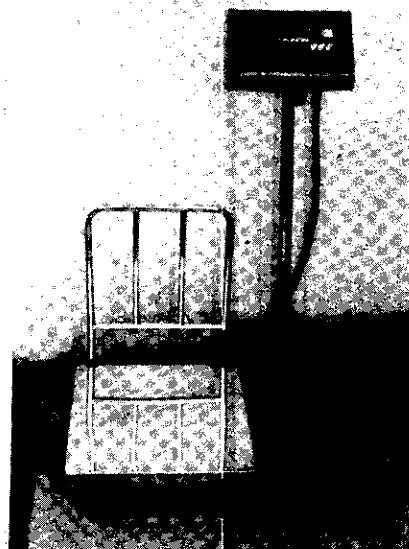
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1247.— Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) and (8) of section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication (herein referred to as the model), of "ARP" series belonging to medium accuracy (accuracy class-III) with brand name "ARTECH" manufactured by M/s Artech Digital Scale, 11, Visat Complex, Revabhai Estate Road, Opp. Ambika Hotel, C.T.M. Char Rasta, Amraiwadi, Ahmedabad-380 026 and which is assigned the approval mark IND/09/2002/52;

The said model is a strain gauge load cell based non-automatic weighing instrument (Platform type) working on the principle of load cell with digital indication of maximum capacity 50kg, minimum capacity 100g and belonging to medium accuracy class (accuracy class-III). The value of verification scale interval (e) is 5g. The display unit is of light emitting diode (LED) type. The instrument operates on 230V, 50Hz alternative current power supply.



Further, in exercise of the power conferred by sub-section(12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 300kg with the number of verification scale interval(n) in the range of 500 to 10000 for 'e' value 5g or more and with 'e' value of 1×10^k , 2×10^k , 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model have been manufactured.

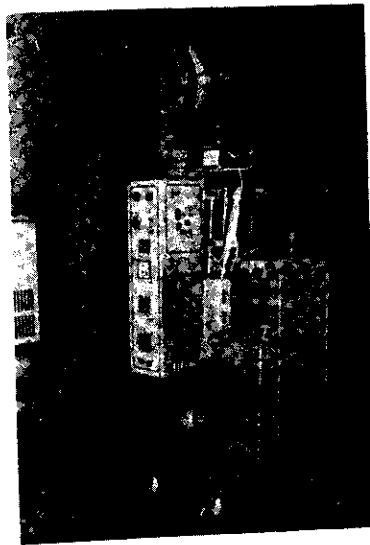
[F. No. WM-21(71)/2001]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1248.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपर्योगों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स एडवांस इन्स्ट्रमेंटेशन, 6/486 इंडस्ट्रियल कंपाउंड थिक्वंगर - 673318 द्वारा विनिर्मित "मारवल-ए-आई-पी एफ" शृंखला के स्वचालित भरण मशीन पिस्टन फिलर प्रकार (के मॉडल का, जिसके ब्रांड का नाम "एडवांस" है) (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/2001/287 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;



उक्त मॉडल स्वचालित भरण मशीन (पिस्टन फिलर) है। यह स्थिर शीर्ष के अधीन गुरुत्व भराई के सिद्धान्त पर कार्य करती है। मशीन 2 मि. ली. से 1000 मि. ली. तक या इसके समतुल्य भार के बीच के किसी भी रेज को परिदृष्ट करने के समायोजित की जा सकती है। यह 20-25 थैलियां प्रति मिनट (अधिकतम) भर सकती हैं। मशीन खाद्य तेल, धी, वनस्पति, शेम्पू, ग्रीस, रोगन आदि जैसे प्रदार्थों को भरने के लिए अभिकल्पित है। उपकरण 230 बोल्ट और 50 हर्टज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

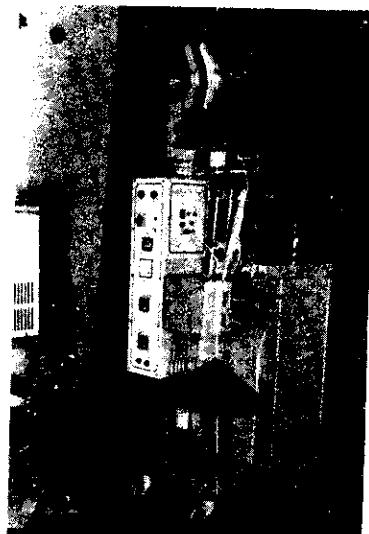
[फा. सं. डब्ल्यू. एम.-21(264)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1248.— Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Models described in the said report (See the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of automatic filling machine (Piston filler type) of 'Marvel-AI-PF' series with brand name "Advance" (herein referred to as the Model), manufactured by M/s Advance Instrumentations, 6/486, Industrial Compound, Thiruvangur-673318 and which is assigned the approval mark IND/09/2001/287;



The said model is an automatic filling machine (Piston filler). It works on the principle of gravity feed under constant head. The machine can be adjusted to deliver any range between 2ml to 1000ml or equivalent weight. It can fill 20—25 pouches per minute (maximum) depending upon the nature of the product and quantity of the filling. The machine is designed to fill products such as edible oil, ghee, vanaspathi, shampoo, grease, paints. It operates on 230 Volts and 50 hertz alternate current power supply.

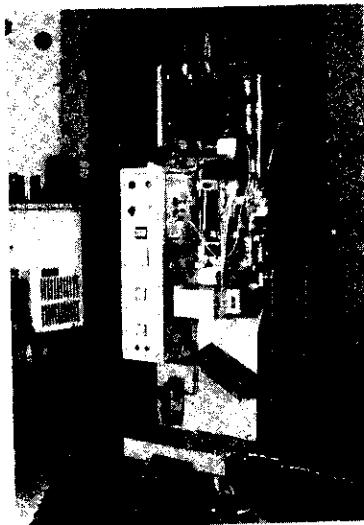
[F. No. WM-21(264)/2001]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1249.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स एडवांस इन्स्ट्रूमेन्टेशन, 6/486 इंडस्ट्रियल कंपाउंड थिरुबंगुर-673318 द्वारा विनिर्मित “यूनीक-ए-आई-सी एफ” शृंखला के स्वचालित भरण मशीन (कप फिलर प्रकार) के मॉडल का, जिसके ब्रांड का नाम “एडवांस” है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2001/288 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



उक्त मॉडल स्वचालित भरण मशीन (कप फिलर) है। यह स्थिर शीर्ष के अधीन गुरुत्व भराई के सिद्धान्त पर कार्य करती है। मशीन का कप विभागों पर निर्भर करते हुए 2 ग्रा. से 1000 ग्रा. या इसके समतुल्य परिमाण के बीच के किसी भी रेंज को परिदृष्ट करने के समायोजित किया जा सकता है। यह उत्पाद की प्रकृति और भराई की मात्रा पर निर्भर करते हुए 20-25 थैलियां प्रति मिनट (अधिकतम) भर सकती हैं। मशीन चाय, मसालों, नमक, कणिकाओं, अपमार्जकों, भेपणिक उत्पादों, बीजों, कृषि उत्पादों आदि जैसे मुक्त प्रवाह वाले उत्पादों के लिए अधिकतम है। यह 230 बोल्ट और 50 हर्टज प्रत्यावर्ती धारा विद्युत् प्रदाय पर कार्य करता है।

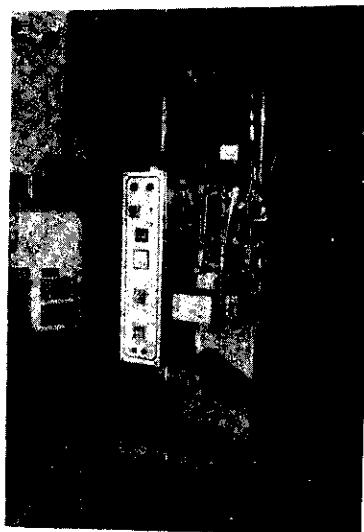
[फा. सं. डब्ल्यू. एम.-21(264)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1249.— Whereas the Central Government, after considering the Report submitted to it by the prescribed authority, is satisfied that the Models described in the said report (See the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of automatic filling machine (Cup filler type) of 'Unique-AI-CF' series with brand name "Advance" (herein referred to as the Model), manufactured by M/s Advance Instrumentations, 6/486, Industrial Compound, Thiruvangur-673318 and which is assigned the approval mark IND/09/2001/288;



The said model is an automatic filling machine (Cup filler type). It works on the principle of gravity feed under constant head. The machine can be adjusted to deliver any range between 2g to 1000g or equivalent volume depending up on the cup dimension. It can fill 20-25 pouches per minute (maximum) depending up on the nature of the product and quantity of the filling. The machine is designed to fill free flowing products such as tea, spices, rice, salt, granules, detergents, pharmaceutical products, seeds, agricultural products etc. It operates on 230 Volts and 50hertz alternate current power supply.

[F. No. WM-21(264)/2001]

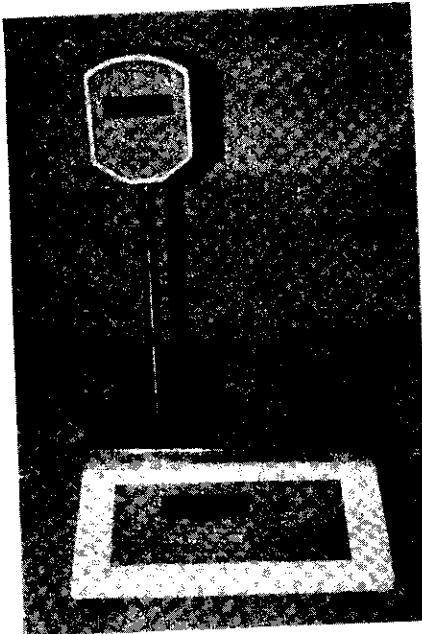
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1250.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपर्युक्तों के अनुरूप हैं और इस बाट की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल अपनी यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स माइक्रो इल्डस्ट्रीज नं. 5, 11वीं क्रास, 60 फुट रोड, जे. सी. नगर, कुरुक्षेत्र हाली, बंगलौर-560086 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग 3) वाले “एम जी टी” शृंखला के अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “माइक्रो” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2002/57 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग 3) का अंकक सूचन सहित टेबल टाप प्रकार का अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि. ग्राम और न्यूनतम क्षमता 100 ग्राम है। सत्यापन मापमान अन्तराल (ई) का मान 5 ग्राम है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड (एल.ई.डी.) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत् प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है और जिनके सत्यापन मापमान अन्तराल (एन) की अधिकतम संख्या 100 मि. ग्राम से 2 ग्रा. के “ई” अनुमोदित मॉडल का विनिर्माण किया गया है और जिनके सत्यापन मापमान अन्तराल (एन) की अधिकतम संख्या 100 मि. ग्राम से 2 ग्रा. के “ई” मान मान के लिए 100 से 10,000 की रेंज तथा 5 ग्रा. या इससे अधिक के “ई” मान के लिए 500 से 10,000 की रेंज में है तथा जिनका “ई” मान 1×10^4 , 2×10^4 या 5×10^4 है जिसमें के धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य है।

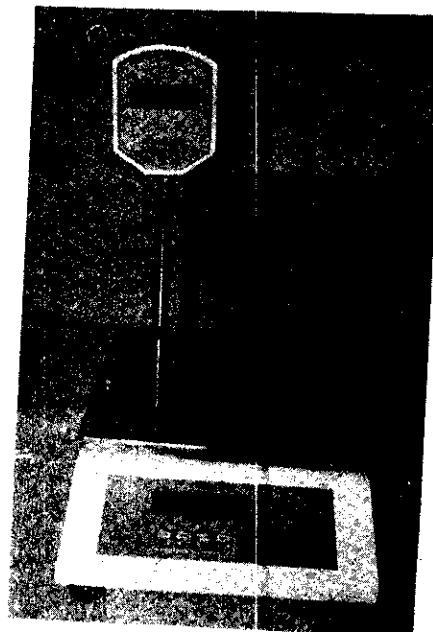
[फा. सं. डब्ल्यू एम-21(350)/2001]
पी. ए. कृष्णाभूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1250.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of model of non-automatic weighing instrument (Table top type) (herein referred to as the model) of "MG-T" series belonging to medium accuracy (accuracy class-III) and with brand name "MICRO" manufactured by M/s Micro Industries, No. 5, 11th cross, 60 ft R, J. C. Nagar, Kurubarahally, Bangalore-560086 and which is assigned the approval mark IND/09/02/57;

The said Model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with digital indication of maximum capacity 30kg, minimum capacity 100g and belonging to medium accuracy class (accuracy class-III). The value of verification scale interval is 5g. The display unit is of light emitting diode type. The instruments operates on 230 Volts, 50 Hertz alternative current power supply.



Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21(350)/2001]

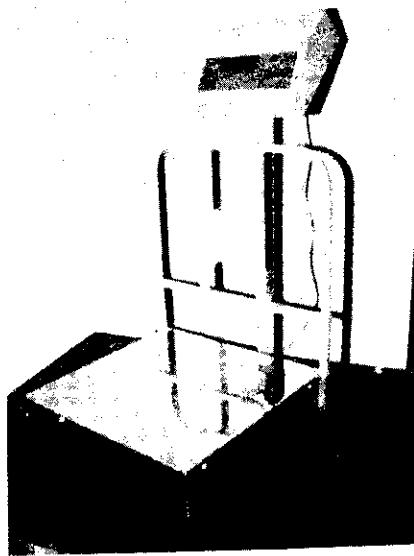
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1251.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स माइक्रो इन्डस्ट्रीज नं. 5, 11वीं क्रास, 60 फुट रोड, जे. सी. नगर, कुरुबारा हाली, बंगलौर-560086 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग 3) वाले "एम जी पी" शृंखला के अस्वचालित तोलन उपकरण (प्लेट फार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "माइक्रो" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2002/58 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

उक्त मॉडल (आकृति देखें) मध्यम यथार्थता वर्ग (यथार्थता वर्ग 3) का अंकक सूचन सहित प्लेट फार्म प्रकार का अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 100 कि. ग्राम और न्यूनतम क्षमता 400 ग्राम है। सत्यापन मापमान अंतराल (ई) का मान 20 ग्राम है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड (एल.ई.डी.) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 50 कि. ग्रा. से अधिक तथा 100 तक है और जिनका विनिर्माण इसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है और जिनके सत्यापन मापमान अन्तराल (एन) की अधिकतम संख्या 5 ग्रा. या इससे अधिक के "ई" मान के लिए 500 से 10,000 की रेज में है तथा जिनका "ई" मान 1×10^4 , 2×10^4 या 5×10^4 है जिसमें के धनात्मक याऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू एम-21(350)/2001]

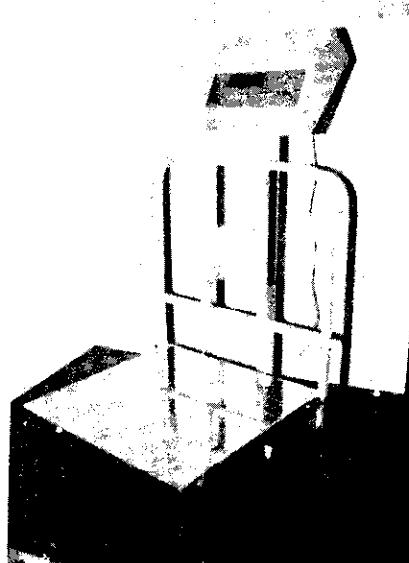
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1251.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of Model of non-automatic weighing instrument (Platform type), (herein referred to as the Model) of "MG-P" series belonging to medium accuracy (accuracy class-III) and with brand name "MICRO" manufactured by M/s Micro Industries, No. 5, 11th cross, 60 ft. R, J. C. Nagar, Kurubarahally, Bangalore-560086 and which is assigned the approval mark IND/09/02/58;

The said Model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with digital indication of maximum capacity 100kg, minimum capacity 400g and belonging to medium accuracy class (accuracy class-III). The value of verification scale interval is 20g. The display unit is of light emitting diode type. The instruments operates on 230 Volts, 50 Hertz alternative current power supply.



Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg and up to 300 kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(350)/2001]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1252.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा सेंट्रल ब्यूरो फार लीगल मीट्रोलोजी एंड नोबल ऐसे, रोम जो इटली के प्रयोजन के लिए एक अधिसूचित निकाय है, द्वारा पैटर्न मूल्यांकन रिपोर्ट और जांच रिपोर्ट भी तथा अनुदत्त और अनुमोदित जांच रिपोर्ट और जांच परिणाम के साथ उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (3) के तीसरे परन्तुक तथा उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स नुआवो पिगोने एस पी एं, वाया एफ मटेक्यूसी 250127, फलोरेंस, इटली और भारत में मैसर्स जनरल एनजी मैनेजमेंट सिस्टम्स प्रा. लि. 521-522 कमर्शियल टावर, ले मेरिडन होटल, विडसर प्लेस, नई दिल्ली-110001 द्वारा विपणित “डी पी जी/एस” श्रृंखला के संपीडित प्राकृतिक गैस वितरक (एकल दोहरे जिसके माडल का नाम “नवोपिगोन सी एन जी वितरक” है) जिसे इसमें इसके पश्चात मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/13/2002/24 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;



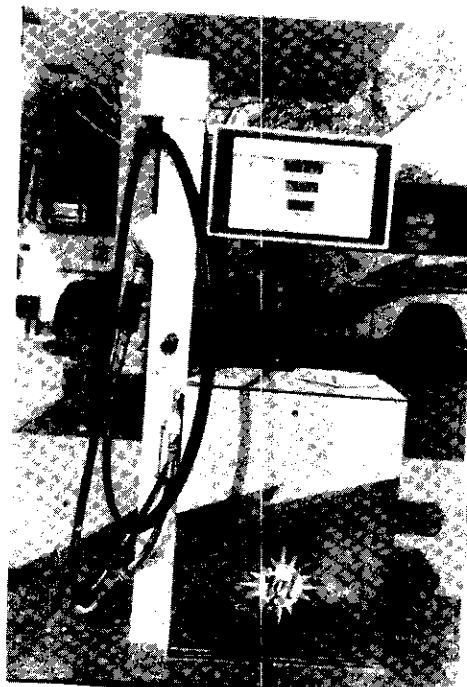
उक्त मॉडल, संपीडित प्राकृतिक गैस (सी एन जी) के द्रव्यमान को मापने के लिए एक सी एन जी वितरक है। यह 0.06 से 18 किलोग्राम/मिनट प्रवाह में रेंज को मापता है। अधिकतम प्रचालन दाब 220 बार और न्यूनतम प्रचालन दाब 50 बार है। माप की गई न्यूनतम मात्रा 5 कि.ग्राम है।

[फा. सं. डब्ल्यू एम-21(335)/2001]
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th April, 2003

S.O. 1252.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, along with the pattern evaluation report and also the test result granted and approved by the Central Bureau for Legal Metrology and noble assay, Rome a notified body for the purpose in the Italy, is satisfied that the models described in the said report (See the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by the third proviso to sub-sections (3) and sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of model of Compressed Natural Gas Dispensers of "DPG/S" series (Single-double version) having brand name "Nuovo Pignone CNG Dispenser" (hereinafter referred to as the Model), manufactured by M/s Nuovo Pignone SPA, VIA F. Matteucci, 2 50127-FLORENCE-ITALY and marketed in India by M/s General Energy Management Systems Pvt. Ltd., 521-522, Commercial Tower, Le Meridian Hotel, Windsor Place, New Delhi-110001 and which is assigned the approval mark IND 13/02/24;



The said Model is a CNG dispenser for measuring the mass of Compressed Natural Gas (CNG). It measures in the flow range of 0.06 to 18 kilogram/minute. The maximum operating pressure is 220 bar and minimum operating pressure is 50 bar. The minimum measured quantity is 5 kilogram.

[F. No. WM-21(335)/2001]
P. A. KRISHNAMOORTHY, Director of Legal Metrology

कोयला मंत्रालय

नई दिल्ली, 21 अप्रैल, 2003

का.आ. 1253.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित भूमि में कोयला अभिप्राप्त किए जाने की संभावना है;

अतः अब केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है), की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस क्षेत्र में कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है;

इस अधिसूचना के अन्तर्गत आने वाले रेखांक संख्या-इसीएल/चुब/मौजा/1 एवं 2 दिनांक 25 सितम्बर, 2002 का निरीक्षण उपायुक्त जिला गोड्डा, एवं पाकुड (झारखण्ड) के कार्यालय में या कोयला नियंत्रक 1, काउंसिल हाउस स्ट्रीट, कोलकाता-700001 के कार्यालय या निदेशक तकनीकी (संचालन), इस्टर्न कोलफील्ड्स लि., सांकतोड़िया, डाकघर-दिसेरगढ़, जिला-बर्धमान (पश्चिम बंगाल) के कार्यालय में किया जा सकता है।

इस अधिसूचना के अन्तर्गत आने वाली भूमि में, हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर निदेशक तकनीकी (संचालन), इस्टर्न कोलफील्ड्स लि., सांकतोड़िया, डाकघर-दिसेरगढ़, जिला-बर्धमान (पश्चिम बंगाल) को परिदृष्ट करेंगे।

अनुसूचीब्लाक 1 और 2चुपरबीटा ब्लाक (राजमहल कोलफील्ड्स)

ब्लाक	क्रम सं०	मौजा/ग्राम का नाम	थाना सं०	थाना	जिला	क्षेत्र हेक्टेयर में (अनुमानतः)	टिप्पणियां
प्रथम एवं द्वितीय	1	चोटा पुरो सं	8	सुन्दर पाहाड़ी	गोड़ा	152.640	अंश
	2	गरीडीह सं	9	सुन्दर पाहाड़ी	गोड़ा	92.790	अंश
	3	पीपर जोरीया सं	10	सुन्दर पाहाड़ी	गोड़ा	37.100	अंश
	4	भीरचैतारी सं	11	सुन्दर पाहाड़ी	गोड़ा	89.400	अंश
	5	पोखरिया सं	12	सुन्दर पाहाड़ी	गोड़ा	53.624	अंश
	6	खेरासोल सं	13	सुन्दर पाहाड़ी	गोड़ा	103.272	अंश
	7	बरा धामनी सं	7	सुन्दर पाहाड़ी	गोड़ा	47.120	अंश
	8	धोवपाहाड़ सं	26	सुन्दर पाहाड़ी	गोड़ा	22.856	अंश
	9	लाडा पाथर सं	27	सुन्दर पाहाड़ी	गोड़ा	28.710	अंश
	10	माको मादगी सं	16	सुन्दर पाहाड़ी	गोड़ा	1.142	अंश
2 द्वितीय	1	जोरधीया सं	1	लिटीपाड़ा	पाकुड़	359.856	अंश
	2	चोटा मुरजोड़ा सं	2	लिटीपाड़ा	पाकुड़	157.840	अंश
	3	बड़ा मुरजोरा सं	3	लिटीपाड़ा	पाकुड़	137.437	अंश
	4	सिमलोंग सं	4	लिटीपाड़ा	पाकुड़	51.095	अंश
	5	अमरबीटा सं	7	लिटीपाड़ा	पाकुड़	26.931	अंश
	6	बास बीता सं	8	लिटीपाड़ा	पाकुड़	57.720	अंश
	7	मारगो सं	9	लिटीपाड़ा	पाकुड़	27.260	अंश
	8	चोटा चटकम सं	10	लिटीपाड़ा	पाकुड़	16.640	पुरा

कुल योग-: 1463.433 हेक्टेयर (अनुमानतः)

सीमा विवरण

ब्लाक - 1 (ए1 - ए18)

ए1 - ए2 यह रेखा ए1 बिन्दु जो मौजा चोटापुरो संख्या 8 के थाना - सुन्दरपहाड़ी, जिला - गोड्डा(झारखण्ड) प्लाट संख्या 221 से शुरू होकर इसी मौजा के प्लाट संख्या 210, 209, 259, 261, 262, 267, 268, 153 से गुजरती हुई बिन्दु ए2 पर मिलती है ।

ए2 - ए3 यह रेखा ए2 बिन्दु जो मौजा चोटापुरो संख्या 8 से शुरू होकर इसी मौजा के प्लाट संख्या 158, 157, 156 एवं प्लाट सं 1 एवं 2 से गुजरती हुई प्लाट संख्या 01 के बिन्दु 'ए3' पर मिलती है ।

ए3 - ए4 यह रेखा ए3 बिन्दु जो मौजा चोटापुरो संख्या 8 के प्लाट संख्या 01 से शुरू होकर प्लाट सं 03, 04, 07, 06, 07, 11 से गुजरती हुई बिन्दु 'ए-4' मौजा चोटा पुरो संख्या 8 के प्लाट सं 11 में मिलती है ।

ए4 - ए5 यह रेखा ए4 बिन्दु जो मौजा चोटापुरो संख्या 8 के प्लाट सं 11 से शुरू होकर प्लाट सं 20 से गुजरती हुई साझा सीमा मौजा चोटापुरो सं 8 एवं गरिडीह सं 9 के प्लाट सं 22, 21, 17, 15, 10, 11 एवं 1 से गुजरती हुई साझा सीमा पीपर जोरिया संख्या 10 एवं गरिडीह संख्या 9 में प्रवेश करती हुई प्लाट संख्या 24, 26, 31, 32, 34, 36, 13, 51, 52, 193, 194, 195, 198, 188, 187, 235, 236, 242, से गुजरती हुई ए5 बिन्दु प्लाट संख्या 242 मौजा पीपर जोरिया संख्या 10 में मिलती है ।

ए5 - ए6 यह रेखा ए5 बिन्दु जो कि प्लाट सं 242 मौजा पीपर जोरिया संख्या 10 से शुरू होकर उसी मौजा के प्लाट संख्या 243, 223, 260, 221 से गुजरती हुई मौजा पीपर जोरिया संख्या 10 एवं मीरचैतारी संख्या 11 के साझा सीमा में प्रवेश करती हुई, मौजा मीरचैतारी संख्या 11 के प्लाट संख्या 11, 12, 11, 32, 75, 76, 72, 71, 67, 66, 64, 53, 52, 209, 208, 211, 243, 242 से गुजरती हुई ए6 बिन्दु प्लाट संख्या 254 में मिलती है ।

ए6 - ए7 यह रेखा ए6 बिन्दु मौजा मीर चैतारी संख्या 11 से शुरू होकर मौजा पोखरिया संख्या 12, मीर चैतारी संख्या 11 की साझा सीमा को पार करती हुई मौजा पोखरिया संख्या 12 के प्लाट संख्या 243, 242, 241, 234, 232, 231, 229, 59, 58, 57, 55, 51, 50, 49, 91, 93, से गुजरती हुई ए7 बिन्दु प्लाट संख्या 94 में मिलती है ।

ए7 - ए8 यह रेखा ए7 बिन्दु मौजा पोखरिया संख्या 12 के प्लाट संख्या 94 से शुरू होकर इसी मौजा के प्लाट संख्या 94, 95 से गुजरती हुई मौजा खयरासोल संख्या 13 एवं पोखरिया संख्या 12 की साझा सीमा रेखा को पार करती हुई मौजा खयरासोल संख्या 13 के प्लाट संख्या 85, 89, 90, 92, 93, 94, 83, 74, 73, 72, 60, 62, 64, 336, 542, 544, 577, 588, 584, 597 से गुजरती हुई प्लाट संख्या 531 में ए8 बिन्दु पर मिलती है ।

ए9 - ए10 यह रेखा ए9 बिन्दु प्लाट संख्या 748 मौजा खयरासोल संख्या 13 से शुरू होकर इसी मौजा के प्लाट संख्या 742, 737, 743, 755 से गुजरती हुई गुमानी नदी के पश्चिमी किनारे से गुजरती हुई बिन्दु ए10 प्लाट संख्या 795 पर मिलती है ।

ए10 - ए11 यह रेखा ए10 बिन्दु गुमानी नदी प्लाट संख्या 795 मौजा खयरासोल संख्या 13 से शुरू होकर प्लाट संख्या 795, 796 से गुजरती हुई गुमानी नदी को पश्चिम किनारे के पार कर प्लाट संख्या 414, 334, 333, 332, गुमानी नदी प्लाट संख्या 124 से गुजरती हुई ए11 बिन्दु पर मिलती है ।

ए11 - ए12 यह रेखा ए11 बिन्दु प्लाट संख्या 124 गुमानी नदी एवं मौजा खयरा सोल संख्या 13 के साझा सीमा से शुरू होकर गुमानी नदी के पूर्वी किनारे एवं मौजा चोटा मुर जोरा संख्या 2 के प्लाट संख्या 46, 47, 20, 19, 18, 17, 16, 14, 13, 12, 11 से गुजरती हुई फिर साझा सीमा को पार करती हुई गुमानी नदी से होकर प्लाट संख्या 388 के ए12 बिन्दु पर मिलती है ।

ए12 - ए13 यह रेखा ए12 बिन्दु से शुरू होकर प्लाट संख्या 301, 302, 303, 329, 328, 334, 335, 336, 341, 351, 354 से गुजरती हुई साझा सीमा रेखा मौजा - पोखरिया संख्या - 12 एवं मिरचैतारी संख्या - 11 से होकर प्लाट संख्या 485, 486, 543, 542, 541, 540, 549, 538, 537, 536 से गुजरती हुई गुमानी नदी के पश्चिम किनारे को पार करती हुई प्लाट संख्या 582 के ए13 बिन्दु पर मिलती है ।

ए13 - ए14 यह रेखा ए13 बिन्दु जो गुमानी नदी मौजा मीरचैतारी संख्या 11 के प्लाट संख्या 582 से शुरू होकर गुमानी नदी के पश्चिम किनारे से गुजरती हुई इसी मौजा के प्लाट संख्या 382, 383, 381 से गुजरती हुई बिन्दु ए14 पर मिलती है जो कि मौजा मीरचैतारी संख्या 11 एवं पीपर जोरिया संख्या 10 के साझा सीमा पर हैं ।

ए14 - ए15 यह रेखा ए14 बिन्दु से शुरू होकर मौजा गरीड़ी संख्या 9 की प्लाट संख्या 667, 668, 805, 668, 701, 714, 713, 716, 720, 721, 668, 814, 798, 796, 795, 791, 790, 787, 785, 782, 787, 780, 778, 777, 775, 789, 771 से गुजरती हुई मौजा गरीड़ी संख्या 9 एवं बड़ा धामनी संख्या 7 की साझा सीमा रेखा में प्रवेश करती हुई मौजा बड़ा धामनी संख्या 7 के प्लाट संख्या 89, 91, 95, 96, 97, 98, 85 से गुजरती हुई ए15 बिन्दु पर मिलती है ।

ए15 - ए16 यह रेखा ए15 बिन्दु जो की प्लाट संख्या 84 मौजा बड़ा धामनी संख्या 7 से शुरू होकर इसी मौजा के प्लाट संख्या 230, 223, 232, 233 के उत्तरी सीमा से पार होते हुई प्लाट संख्या 318, 239, 314, 313, 312, 311, 310, 307, 305, 304, 303, 301, 299, 297, 385, 386, 388, 389, 390, 395, 397, 398, 375, 445, 504 से गुजरती हुई ए16 बिन्दु पर मिलती है ।

ए16 - ए17 यह रेखा ए16 बिन्दु जो की प्लाट संख्या 504 मौजा बड़ा धामनी 07 से शुरू होकर प्लाट संख्या 504 से गुजरती हुई ए17 बिन्दु पर मिलती है ।

ए17 - ए18 यह रेखा ए17 बिन्दु मौजा बड़ा धामनी संख्या 07 से शुरू होकर इसी मौजा के प्लाट संख्या 504, 570, 477, 471, 478, से गुजरती हुई मौजा माको माधगी संख्या 16 कि साझा सीमा में प्रवेश करती हुई इसी मौजा के प्लाट संख्या 19, 18, 16, से गुजरती हुई मौजा चोटा पुरो संख्या 8 एवं माको माधगी संख्या 16 कि साझा सीमा को पार करती हुई मौजा चोटा पुरो संख्या 8 प्लाट संख्या 1056, के ए18 बिन्दु पर मिलती है ।

ए18 - ए1 यह रेखा ए18 बिन्दु प्लाट संख्या 1056 मौजा चोटा पुरो संख्या 8 थाना - सुन्दर पहाड़ी, जिला - गोड्डा से शुरू होकर इसी मौजा के प्लाट संख्या 215, 213, 212, से गुजरती हुई ए1 बिन्दु प्लाट संख्या 221 मौजा चोटा पुरो संख्या 8 पर मिलती है ।

सीमा विवरण
प्लाक - 2 (बि1 - बि27)

बि1 - बि2 यह रेखा बि1 बिन्दु मौजा बड़ा धामनी संख्या 7 थाना सुन्दर पहाड़ी, जिला - गोड़ा के प्लाट संख्या 100 से शुरू होकर प्लाट संख्या 100, 101, 102, 103, 1175, से गुजरती हुई गुमानी नदी के पुर्वी किनारे से प्लाट संख्या 1161, 1162, 1165 के दक्षिणी किनारे से गुजरती हुई गुमानी नदी एवं मौजा - जोरडीहा संख्या 1 की प्लाट संख्या 525, 526, से गुजरती हुई बि2 बिन्दु प्लाट संख्या 521 मौजा जोरडीहा संख्या 1 थाना - लिट्टीपाड़ा जिला - पाकुड़ मे मिलती हैं ।

बि2 - बि3 यह रेखा बि2 बिन्दु प्लाट संख्या 521 मौजा जोरडीहा संख्या 1 से शुरू होकर इसी मौजा के प्लाट संख्या 522, 524, 518, 514, 513, 511, 510, 545 से गुजरती हुई बि3 बिन्दु प्लाट संख्या 545 पर मिलती है ।

बि3 - बि4 यह रेखा बि3 बिन्दु प्लाट संख्या 545 मौजा जोरडीहा संख्या 1 से शुरू होकर इसी मौजा के प्लाट संख्या 551, 787 से गुजरती हुई साझा सीमा रेखा जोरडीहा संख्या 1 एवं छोटा चटकम संख्या 10 को पार करती हुई प्लाट संख्या 353, 354 के पश्चिमी किनारे से गुजरती हुई प्लाट संख्या 342, 403, 402, 488, 407 से गुजरती हुई साझा सीमा रेखा मौजा छोटा चटकम संख्या 10 एवं मारगो संख्या 9 में प्रवेश करती हुई प्लाट संख्या 8, 9, 15, 18, से गुजरती हुई बि4 बिन्दु पर मिलती है ।

बि4 - बि5 यह रेखा बि4 बिन्दु से शुरू होकर मौजा मारगो संख्या 9 के प्लाट संख्या 102, 101, 01 से गुजरती हुई साझा सीमा रेखा मौजा मारगो संख्या 9 एवं बांशबीटा संख्या 8 में प्रवेश कर प्लाट संख्या 187, 191, से गुजरती हुई बि5 बिन्दु पर मिलती है ।

बि5 - बि6 यह रेखा बि5 बिन्दु मौजा बांशबीटा संख्या 8 से शुरू होकर इसी मौजा की प्लाट संख्या 205, 68, 69, 70 एवं प्लाट संख्या 25 के उत्तरी पूर्वी किनारे से गुजरती हुई प्लाट संख्या 9, 8, 4, 5, 1 से गुजरती हुई साझा सीमा रेखा मौजा बांशबीटा रांख्या - 8 एवं जोरडीहा रांख्या 1 में प्रवेश कर प्लाट संख्या 731 से गुजरती हुई बि6 बिन्दु पर मिलती है ।

बि6 - बि7 यह रेखा बि6 बिन्दु मौजा जोरडीहा संख्या 01 से शुरू होकर मौजा अमरबीटा संख्या 7 एवं जोरडीहा संख्या 1 की साझा सीमा में प्रवेश करती हुई मौजा अमरबीटा प्लाट संख्या 1 से गुजरती हुई बि7 बिन्दु पर मिलती है ।

बि7 - बि8 यह रेखा बि7 बिन्दु मौजा अमरबीटा रांख्या 7 प्लाट संख्या 1 से शुरू होकर प्लाट संख्या 111 की पश्चिमी सीमा से पार होकर प्लाट संख्या 112, 113, 01 से गुजरती हुई इसी मौजा में बि8 बिन्दु पर मिलती है ।

बि8 - बि9 यह रेखा बि8 बिन्दु मौजा अमरबीटा संख्या 7 से शुरू होकर साझा सीमा रेखा मौजा बड़ा मुरजोरा संख्या 3 एवं अमरबीटा संख्या 7 से प्रवेश करते हुई बड़ा मुरजोरा संख्या 3 की प्लाट संख्या 922, 920, 917, 918, 831, 828, 827, 825, 823, 822, 790, 787, 786, 778, 770, 773, 774, 432, 468, 567, 464, 460, 459 से गुजरती हुई बिन्दु बि9 प्लाट संख्या 448 पर मिलती है ।

बि9 - बि10 यह रेखा बि9 बिन्दु प्लाट संख्या 448 मौजा बड़ा मुरजोरा संख्या 3 से शुरू होकर इसी मौजा के प्लाट संख्या 455, 453, 450, 424, 410, 411, 401, 359, 355, 356 को पार करते हुई साझा सीमा

रेखा मौजा बड़ा मुरजोरा संख्या 3 एवं सिमलोंग संख्या 4 से प्रवेश करते हुई प्लाट संख्या 37, 38, 40, 35, 34, 45, 48, 69, 68, 67, 72 से गुजरती हुई बिन्दु बिं 10 प्लाट संख्या 448 पर मिलती है।

बिं 10 - बिं 11 यह रेखा बिं 10 बिन्दु से प्लाट संख्या 101 मौजा सिमलोंग संख्या 4 से शुरू होकर इसी मौजा के प्लाट संख्या 100, 101, 256, 257, 255, 253, 249, 247, 248, 257, 126, 127, 128, 132, 133, 174, 432, एवं बिन्दु बिं 11 प्लाट संख्या 558 पर मिलती है।

बिं 11 - बिं 12 यह रेखा बिं 11 बिन्दु से प्लाट संख्या 558 मौजा सिमलोंग संख्या 4 से शुरू होकर इसी मौजा के प्लाट संख्या 559 में बिं 12 बिन्दु पर मिलती है।

बिं 12 - बिं 13 यह रेखा बिं 12 बिन्दु मौजा सिमलोंग संख्या 4 से शुरू होकर इसी मौजा के प्लाट संख्या 559 में शुरू होकर उसी मौजा के प्लाट संख्या 559, 342, 174, 132, 130, 129, 257, 248, 247 से गुजरती हुई बिं 13 बिन्दु पर मिलती है।

बिं 13 - बिं 14 यह रेखा बिं 13 बिन्दु प्लाट संख्या 247 सिमलोंग संख्या 4 से शुरू होकर इसी मौजा के प्लाट संख्या 247, 238, 227, 226, 220, 221, 219, 200, 201, 295, 296, 297, 309, 307 से गुजरती हुई बिं 14 बिन्दु पर मिलती है।

बिं 14 - बिं 15 यह रेखा बिं 14 बिन्दु प्लाट संख्या 307 मौजा सिमलोंग संख्या 4 से शुरू होकर इसी मौजा के प्लाट संख्या 308, 303, 333, 486, 483, 491, 492, 481, 436, 437, 438, 440, 444, 449, 452, 464, 463, 468, 472, 543, 400, 615, से गुजरती हुई लादा नदी से प्रवेश करती हुई साझा सीमा रेखा मौजा सिमलोंग संख्या 4 एवं लादापाथार संख्या 27 से प्रवेश कर बिं 15 पर मिलती है।

बिं 15 - बिं 16 यह रेखा बिं 15 बिन्दु जो साझा सीमा से शुरू होकर मौजा लादा पाथार संख्या 27 के प्लाट संख्या 166, 165, 156, 151, 150, 148, 134, 133, 247, 256, 257, 258, 261 से गुजरती हुई बिं 16 बिन्दु पर मिलती है।

बिं 16 - बिं 17 यह रेखा बिं 16 बिन्दु जो प्लाट संख्या 261 मौजा लादा पाथार संख्या 27 से शुरू होकर उसी मौजा के प्लाट संख्या 261, 260, 310, 300 से गुजरती हुई साझा सीमा रेखा लादा पाथार संख्या 27 धोपहाड़ संख्या 26 में प्रवेश करती हुई प्लाट संख्या 262, 67, 69, 74, 75 से गुजरती हुई प्लाट संख्या 100 में बिं 17 बिन्दु पर मिलती है।

बिं 17 - बिं 18 यह रेखा बिं 17 बिन्दु जो प्लाट संख्या 100 मौजा धोपहाड़ संख्या 26 से शुरू होकर उसी मौजा के प्लाट संख्या 100, 96, 94, 79, 85 से गुजरती हुई बिं 18 बिन्दु पर मिलती है।

बिं 18 - बिं 19 यह रेखा बिं 18 बिन्दु जो साझा सीमा रेखा मौजा धोपहाड़ संख्या 26 एवं गुमानी नदी के दक्षिणी किनारे से शुरू होकर गुमानी नदी से गुजरती है तथा इसी मौजा के प्लाट संख्या 48, 47, 46, 37, 36, 38, 35, 34, 33, 30, 208 से गुजरती हुई साझा सीमा रेखा धोपहाड़ संख्या 26 एवं लादा पाथार संख्या 27 में प्रवेश करते हुई गुमानी नदी में बिं 19 बिन्दु पर मिलती है।

बिं 19 - बिं 20 यह रेखा बिं 19 बिन्दु जो मौजा लादा पाथार संख्या 27 के प्लाट संख्या 3 से शुरू होकर मौजा लादा पाथार संख्या 27 एवं सिमलोंग संख्या 4 के साझा सीमा रेखा में प्रवेश कर प्लाट संख्या 363, 357,

356, 331, 321, 322, 317, 280, 278, 276, 286, 287, 265, 264, 263, 92, 93, 78, 79, 80, से गुजरती हुई प्लाट संख्या 60 के पश्चिमी किनारे पर बिंदु पर मिलती है।

बिंदु 20 - बिंदु 21 यह रेखा बिंदु 20 जो मौजा सिमलोंग संख्या 4 प्लाट संख्या 60, 58, 8, 9, 12 से गुजरती हुई मौजा सिमलोंग संख्या 4 एवं बड़ा मुरजोरा संख्या 3 के साझा सीमा रेखा मैं प्रवेश करते हुई प्लाट संख्या 326, 328, 321, 317, 316 से गुजरती हुई बिंदु 21 बिंदु पर मिलती है।

बिंदु 21 - बिंदु 22 यह रेखा बिंदु 21 बिंदु प्लाट संख्या 317 मौजा बड़ा मुरजोरा संख्या 3 से शुरू होकर इसी मौजा के प्लाट संख्या 313, 270, 271, 300, 294, 293, 292, 289 से गुजरती हुई गुमानी नदी में बिंदु 22 बिंदु पर मिलती है।

बिंदु 22 - बिंदु 23 यह रेखा गुमानी नदी बिंदु 22 से शुरू होकर मौजा बड़ा मुर जोरा संख्या 3 एवं खयरासोल संख्या 13 की साझा सीमा रेखा को पार करते हुई मौजा बड़ा मुरजोरा संख्या 3 के प्लाट संख्या 284, 223, 101, 100, 99, 98, 94, 93, 92, 84, 69, 68, 66, 56, से गुजरती हुई बिंदु 23 बिंदु पर मिलती है।

बिंदु 23 - बिंदु 24 यह रेखा बिंदु 23 बिंदु प्लाट संख्या 57 मौजा बड़ा मुर जोरा संख्या 3 से शुरू होकर उसी मौजा के प्लाट संख्या 58, 29, 42, 37, 38, 35, 31, 32, 21, 19, 14, 13, 8, 5, 2 एवं मौजा बड़ा मुरजोरा संख्या 3 एवं छोटा मुरजोरा संख्या 2 की साझा सीमा को पार करते हुई प्लाट संख्या 188, 187, 186, 185, 184, 183, 182, 181, 180, 179, 178, 177, 173 से गुजरती हुई प्लाट संख्या 125 बिंदु 24 बिंदु पर मिलती है।

बिंदु 24 - बिंदु 25 यह रेखा बिंदु 24 बिंदु प्लाट संख्या 125 मौजा छोटा मुरजोरा संख्या 2 से शुरू होकर इसी मौजा के प्लाट संख्या 126, 125, 120, 123, 102, 101, 100, 123, 61, 60, 58, 59, 51 से गुजरती हुई प्लाट संख्या 792 में बिंदु 25 बिंदु पर मिलती है।

बिंदु 25 - बिंदु 26 यह रेखा बिंदु 25 बिंदु प्लाट संख्या 792 मौजा छोटा मुरजोरा संख्या 2 से शुरू होकर इसी मौजा के प्लाट संख्या 792 से गुजरती हुई मौजा छोटा मुरजोरा संख्या 2 एवं जोरड़ीहा संख्या 1 की साझा सीमा पार करते हुई प्लाट संख्या 731, 154, 270, 131 से गुजरती हुई प्लाट संख्या 270 में बिंदु 26 बिंदु पर मिलती है।

बिंदु 26 - बिंदु 27 यह रेखा बिंदु 26 बिंदु प्लाट संख्या 270 मौजा जोरड़ीहा संख्या 1 से शुरू होकर उसी मौजा की प्लाट संख्या 270, 126, 124, 7, 8, 10, 11, 5 से गुजरती हुई प्लाट संख्या 4 के पूर्वी कोण पर बिंदु 27 बिंदु पर मिलती है।

बि27 - बि1 यह रेखा बि27 बिन्दु प्लाट संख्या 4 मौजा जोरडीहा संख्या 1 से शुरू होकर उसी मौजा की प्लाट संख्या 3, 5, 2, 13, 15, 17, 19, 20, 21, 24 से गुजरती हुई मौजा जोरडीहा संख्या 1 एवं गरीडीह संख्या 9 की साझा सीमा रेखा पार करती हुई गुमानी नदी से गुजरती हुई मौजा बड़ा धामनी संख्या 7 एवं गरीडीह संख्या 9 की साझा सीमा को पार करते हुई प्लाट संख्या 100 में बि1 बिन्दु मौजा धामनी संख्या 7 थाना - सुन्दर पहाड़ी, जिला - गोड्डा में मिलती है।

[फा. सं. -43015/10/2002-पी.आर.आई. डब्ल्यू.]
संजय बहादुर, उप सचिव

MINISTRY OF COAL

New Delhi, the 21st April, 2003

S. O. 1253.— where as it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule here to annexed;

Now, therefore, in exercise of the powers conferred by sub - section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan (Drawing No. ECL/CHUB/MOUZA/1 & 2: Dated 25th September 2002) of the area covered by this notification may be inspected in the office of the Deputy Commissioner, District Godda and Pakur (Jharkhand) or in the office of the Coal controller, 1, Council House Street Calcutta or in the office of the Director Technical (Operation) Eastern Coalfields Limited, Sanctoria, PO. Dishergarh, District- Burdwan, (West Bengal);

All persons interested in the lands covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act , to the Director Technical (Operation), Eastern Coalfields Limited, Sanctoria, PO. Dishergarh, District – Burdwan (West Bengal), within ninety days from the date of publication of this notification in the official Gazette.

Schedule
Block – 1st. and 2nd
Chuperbhita Block (Rajmahal Coalfields)

Block	Sl. No	Mouza village	Thana No.	Police station	District	Area (hectares)	Remarks
1st	1	Chota Puro No	8	Sundar-Pahari	Godda	152.640	P
	2	Garidih No.	9	Sundar-Pahari	Godda	92.790	P
	3	Piperjoria No.	10	Sundar-Pahari	Godda	37.100	P
	4	Mirchaitari No.	11	Sundar-Pahari	Godda	89.400	P
	5	Pokharia No.	12	Sundar-Pahari	Godda	53.624	P
	6	Kherasole No.	13	Sundar-Pahari	Godda	103.272	P
	7	Bara Dhamni No.	7	Sundar-Pahari	Godda	47.120	P
	8	Dhouphar No.	26	Sundar-Pahari	Godda	22.856	P
	9	Lada pathar	27	Sundar-Pahari	Godda	28.710	P
	10	Mako-Madgi	16	Sundar-Pahari	Godda	1.142	P
2 nd	1	Jordiha No.	1	Littipara	Pakur	359.856	P
	2	Chota Murjora No	2	Littipara	Pakur	157.840	P
	3	Bara Murjora No.	3	Littipara	Pakur	137.437	P
	4	Simlong No.	4	Littipara	Pakur	51.095	P
	5	Amar Bita No.	7	Littipara	Pakur	26.931	P
	6	Basbita No.	8	Littipara	Pakur	57.720	P
	7	Margo No.	9	Littipara	Pakur	27.260	P
	8	Chota Chatkam No.	10	Littipara	Pakur	16.640	P

Grand Total = 1463.433

1463.433 Hectares (approximately)

Boundary Description (Block – 1) (A1 - A18)

A1-A2 :- Line starting from point A1 in mouza Chota Puro No. 8 of P.S. Sundar Pahari.- Dist. Godda, Jharkhand Plot No. 221 and passing through the Plot No. 210, 209 ,258, 261,262,267,268 & 153 meeting at point A2 in the Eastern Boundary of Plot No. 158 in Mouza Chota Puro No. 8.

A2-A3 :- Line starting from point A2 in Mouza Chota Puro No. 8 and passing through Plot No.158, 157,156 and Plot No.1 & 2 and meeting at point A3 in Plot No.1 of Chota Puro No. 8

A3-A4 :- Line starting from point A3 in plot no. 1 of Chota Puro No. 8 and passing through plot no. 3,4,7,6 , 7,11 and meeting at point A4 in plot no. 11 of Chota puro no 8.

A4-A5 :- Line starting from point A4 in plot no. 11 of Mouza Chota puro no. 8 and passing through plot no.20 and crossing the common Boundary line of Mouza Chota Puro no. 8 and Garidih No. 9 and passing through Plot no. 22, 21, 17, 15, 10, 11 and 1 of Mouza Garidih no. 9 and entering in the common boundary line of mouza Piparjoria no. 10 and Garidih no. 9 and passing through plot no.24,26,31,32,34,36,13,51,52,193,194,195,198,188, 187,235,236,242, and meeting at point A5 in plot no.242 of Mouza Piparjoria no. 10.

A5-A6 :- Line starting from point A5 in Mouza Piparjoria no. 10 plot no. 242 and passing through plot no.243,223,260,221 and entering in the common boundary line of Mouza Piparjoria no.10 and Marchaitari no.11 and passing through plot no.11,12,11,32,75,76,72,71,67,66,64,53,52,209,208,211,243,242 and meeting at point A6 in plot no. 254 of Mouza Marchaitari no. 11.

A6-A7 :- Line starting from pont A6 in Mouza Marchaitari no. 11 plot no. 254 and entering in the common boundary line of Mouza Pokharia no.12 and Marchatari no.11 and passing through plot no. 243, 242, 241, 234, 232, 231, 229, 59, 58, 57, 55, 51, 50, 49, 91, 93 and meeting at point A7 in Southern boundary of plot no.94 in Mouza Pokharia no.12.

A7-A8 :- Line starting from point A7 in Mouza Pokharia no. 12 passing from plot no. 94, 95, and entering in the common boundary line of Mouza Kherasol no. 13 and Pokharia No. 12 passing through plot no. 85, 89, 90, 92, 93, 94, 83, 74, 73,72, 60, 62, 64, 336, 542, 544, 577, 588, 584, 597 and meeting at point A8 in plot no.531 of Mouza Kherasol no 13.

A8-A9 :- Line starting from point A8 in Mouza Kherasol no. 13 Plot no. 531 and passing through plot no. 698, 600, 614, 522, 521, 615, 508, 507, 506, 630, 498, 496, 494, 493, 683, 682, 715, 713, 712, 732, 738, 740, 749, 748 and meeting at point A9 in plot no. 748.

A9-A10:- Line starting from point A9 in plot no. 748 in Mouza Kherasol no. 13 and passing through plot no. 742, 737, 743, 755 and crossing the Western Bank of Gumani River and meeting at point A10 in plot no. 795 of Mouza Kherasol no. 13.

A10-A11:- Line starting from point A10 in Gumani River plot no. 795 of Mouza Kherasol no. 13 and passing through plot no. 795, 796 and crossing the Western Bank of Gumani River and entering in plot no. 414 and passing through plot no. 334, 333, 332 and again crossing the Gumani river and passing through plot no. 124, Gumani river and meeting at point A11.

A11-A12:- Line starting from point A11 plot no. 124 of Gumani river Mouza Kherasol no. 13 and passing through common boundary line and Eastern Bank of Gumani river and Chota Murjora no. 2 and passing through plot no. 46, 47, 20, 19, 18, 17, 16, 14, 13, 12, 11 and crossing the common boundary line of Eastern Bank of Gumani river and Mouza Chota Murjora no. 2 and passing through Gumani river and meeting at point A12 in plot no. 388.

A12-A13:- Line starting from point A12 and passing through plot no. 301, 302, 303, 329, 328, 334, 335, 336, 341, 351, 354 and entering in common boundary of Imouza – Pokharia No. 12 and Mirchaitari No. 11 and passing through plot No. 485, 486, 543, 542, 541, 540, 549, 538, 537, 536 and crossing through the Western Bank of Gumani river in plot no. 582 and meeting at point A13.

A13-A14:- Line starting from point A13 in Gumani river Mouza Marchaitari no. 11 and passing through plot no. 582 of Gumani river and crossing the Western Bank of Gumani river passing through the plot no. 382, 383, 381 and meeting at point A14 common boundary line of Mouza Marchaitari 11 and Piparjoria no. 10.

A14-A15:- Line starting from point A14 entering in Mouza Garidih No. 9 passing through plot no. 667, 668, 805 crossing the plot no. 668 and passing through plot no. 701, 714, 713, 716, 720, 721, 668, 814, 798, 796, 795, 791, 790, 787, 785, 782, 787, 780, 778, 777, 775, 789, 771 and passing through the common boudary of Mouza Garidih no. 9 and Bara Dhamni no. 7 and passing through plot no. 89, 91, 95, 96, 97, 98, 85 and meeting at point A15 Mouza Bara Dhamni no. 7.

A15-A16:- Line starting from point A15 in plot no. 84 Mouza Bara Dhamni no. 7 and passing through the Northen Boundary of plot no. 230, 223, 232, 233 and passing through plot no. 318, 239, 314, 313, 312, 311, 310, 307, 305, 304, 303, 301, 299, 297, 385, 386, 388, 389, 390, 395, 397, 398, 375, 445, 504 and meeting at point A16 of Mouza Bara Dhamni no. 7.

A16-A17:- Line starting from point A16 plot no. 504 of Bara Dhamni no. 7 and passing through plot no 504 and meeting at point A17.

A17-A18 :- Line starting from point A17 of Mouza Bara Dhamani no.7 passing through plot no. 504, 570, 477, 471, 478 and enterign common boundary line of Mouza Mako Madhgi no16 and passing through plot no. 19, 18, 16 of Mouza Mako Madhgi no 16 and passing through common boundary line of Chota Puro no. 8 and Mako Madhgi no 16 and meeting at point A18 in plot no. 1056 of Chota Puro no.8.

A18-A1 :- Line starting from point A18 plot no. 1056 of Mouza Chota Puro no. 8nad passing through plot no. 215, 213, 212 and meeting at point A1 in plot no.221 of Mouza Chota Puro no. 8 at P.S. Sunder Paharhi, Dist. – Godda.

BOUNDARY DESCRIPTION OF BLOCK –2 (B1 – B27)

B1-B2 :- Line starting from point B1 mouza Bara Dhamni No-7, P.S. Sunderpahari, Dist. Godda, Plot No 100 passing through plot no 100, 101, 102, 103 and crossing the Eastern Bank of Gumani River and passing through Plot No 1175 and crossing the Southern Boundary of plot no 1161, 1162, 1165 and crossing the Southern Bank of Gumani River and entering in Mouza Jordiha No-1, Passing through plot no 525, 526 and meeting at point B2 in plot no 521 of Mouza Jordiha no-1, P.S.-Littipara,dist. Pakur.

B2-B3 :- Line starting from point B2 in plot no 521 Mouza Jordiha No-1 and passing through plot no 522, 524, 518, 514, 513, 511, 510, 545 and meeting at point B3 in plot no.545 of Mouza Jordiha no-1.

B3-B4 :- Line starting from point B3 plot no 545 Mouza Jordiha No-1 and passing through plot no-551, 787 and crossing the common Boundry line of Mouza Jordiha no-1 and Chota Chatkam no-10 and passing through Western Boundry of plot no 353, 354 and passing through plot no 342, 403, 402, 488, 402 and passing through common boundary of Mouza Chota Chatkam no-10 and Margo no-9 and passing through plot no. - 8, 9, 15, 18 and meeting at point B4 in Mouza Margo no-9.

B4-B5 :- Line starting from point B4 in Mouza Margo no. - 9 and passing through plot no. 102, 101, 1 and crossing the common boundary line of Mouza Margo no-9 and Bansbhita no. - 8 passing through plot no.187, 191 and meeting at point B5 in Mouza Bansbhita no. - 8.

B5-B6 :- Line starting from point B5 Mouza Bansbitha no-8 passing through plot no-205, 68, 69, 70 passing through North East corner of plot no 25 and passing through plot no 9, 8, 4, 5, 1 and crossing the common boundary line of Mouza Bansbitha no-8 and Jordiha no-1 and passing through plot no 731 of Jordiha no-1 and meeting at point B6.

B6-B7 :- Line starting from point B6 in Mouza Jordiha N0-1 crossing the common boundary line of Mouza AmarBitha No-7 and Jordiha No-1 and passing through plot no 1 of Amarbita no-7 and meeting at point B7.

B7-B8 :- Line starting from B7 in Mouza Amarbitha no-7, passing through plot no-1, Western Boundary of plot no-111, Passing through 112, 113 and 1, meeting at point B8 in Mouza Amarbitha no-7.

B8-B9 :- Line starting from point B8 in Mouza Amarbitha no-7, and entering in common boundary line of Mouza Bara Murjora no-3, and Amarbitha no.-7, passing through plot no-922, 920, 917, 918, 831, 828, 827, 825, 823, 822, 790, 787, 786, 778, 770, 773, 774, 432, 468, 567, 464, 460, 459 and meeting at point B9 in plot no-448.

B9-B10:- Line starting from point B9 in plot no-448 of Bara Murjora no-3, passing through plot no 455, 453, 450, 424, 422, 410, 411, 401, 359, 355, 356 and crossing the common boundary line of Mouza Simlong no-4 and Bara Murjora no-3, Passing through plot no 37, 38, 40, 35, 34, 45, 48, 69, 68, 67, 72 and meeting at point B10.

B10-B11:-Line starting from point B10 in plot no 101 of Mouza Simlonf No-4, passing through plot no-100, 101, 256, 257, 255, 253, 249, 247, 248, 257, 126, 127, 128, 132, 133, 174 and 432 meeting at point B11 in plot no 558 of Mouza Simlong no-4.

B11-B12:-Line starting from B11 in plot no 558 of Mouza Simlong no-4 and meeting at point B12 in plot no 559.

B12-B13:-Line starting from point B12 in Mouza Simlong no-4,passing through plot no- 559, 342, 174, 132, 130, 129, 257, 248, 247 meeting at point B13.

B13-B14:-Line starting from B13 plot no 247 of Mouza Simlong no-4, passing through plot no-247, 238, 227, 226, 220, 221, 219, 200, 201, 295, 296, 297, 309, 307 and meeting at point B14.

B14-B15:-Line starting from point B14 Mouza Simlong no-4,plot no-307, passing through plot no-308, 303, 333, 486, 483, 491, 492, 481, 436, 437, 438, 440, 444, 449, 452, 464, 463, 468, 472, 543, 400, 615 and crossing the Lada River and meeting at common boundary of Mouza Simlong no-4 and Lada Pathar no-27 at point B15.

B15-B16:-Line starting from B15 at common boundary point and passing through mouza Ladapathar no-27 plot no-167, 166, 165, 156, 151, 150, 148, 134, 133, 247, 256, 257, 258, meeting at point B16 in plot no 261.

B16-B17:-Line starting from point B16 plot no 261 of Mouza Lada Pathar no-27 and passing through plot no-261, 260, 310, 300 and passing throgh common boundary line of Mouza Lada Pathar no-27 and Dhouphar no-26 and passing through plot no- 262, 67, 69, 74, 75 and meeting at point B17 in plot no 100.

B17-B18:-Line starting from point B17 plot no 100 of Mouza Dhouphar No-26 and passing through plot no-100, 96, 94, 79, 85 and meeting at point B18.

B18-B19:-Line starting from point B18 the common boundary point of Mouza Dhouphar no-26 and Southern Bank of Gumani River and passing through Gumani river and plot no 48, 47, 46, 37, 36, 38, 35, 34, 33, 30, 206 of Mouza Dhouphar no-26 and crossing the common boundary line of Mouza Ladapathar no-27 and Dhouphar no-26 and passing through Gumani River and meeting at point B19 on the Southern Bank of Gumani River plot no.3 of Ladapathar no.27.

B19-B20:-Line starting from point B19 plot no-3 of Ladapathar no-27 and passing through the common boundary line of Mouza Simlong no-4 and Ladapathar no-27 passing through plot no-363, 357, 356, 331, 321, 322, 317, 280, 278, 276, 286, 287, 265, 264, 263, 92, 93, 78, 79, 80 and meeting at point B20 in West corner of plot no-60 in Mouza Simlong No-4.

B20-B21:-Line starting from point B20 passing through plot no-60, 58, 8, 9, 12 and entering in common boundary line of Mouza Bara Murjora No-3 and Simlong No-4, passing through plot no-326, 328, 321, 317, 316 and meeting at point B21.

B21-B22:-Line starting from point B21 plot no-317 of Mouza Bara Murjora no-3 and passing through plot no-313, 270, 271, 300, 294, 293, 292, 289 and meeting at point B22 in Gumani River.

B22-B23:-Line starting from Point B22 in Gumani River and crossing the common boundary line of Mouza Bara Murjora no-3 and Kherasol no-13 and passing through plot no-284, 223, 101, 100, 99, 98, 94, 93, 92, 84, 69, 68, 66, 56 of Mouza Bara Murjora no-3 and meeting at point B23.

B23-B24:-Line starting from point B23 in plot 57 of Mouza Bara Murjora No-3 and passing through plot no-58, 29, 42, 37, 38, 35, 31, 32, 21, 19, 14, 13, 8, 5, 2 and entering the common boundary line of Mouza Chota Murjora no-2 and Bara Muljora no-3 and passing in plot no-188, 187, 186, 185, 184, 183, 182, 181, 180, 179, 178, 177, 173 of Chota Murjora no-2, and passing through common boundary line of Mouza Chota Murjora no-2 and Gumani River and passing through Gumani River plot no-122 again crossing the common boundary line of Mouza Chota Murjora no-2 and Gumani River and Meeting at point B24 in plot no-125 of Mouza Chota Murjora no-2.

B24-B25:-Line starting from point B24 Mouza Chota Murjora no-2 plot no-125 and passing through plot no-126, 125, 120, 123, 102, 101, 100, 123, 61, 60, 58, 59, 51 and meeting at point B25 in plot no-792 Mouza Chota Murjora no-2.

B25-B26:-Line starting from point B25 plot no-792 of Chota Murjora No-2 and passing through plot no-792 and crossing the Common boundary line of Mouza Jordiha no-1 and Chota Murjora No-2 and passing through plot no-731, 154, 270, 131, and meeting at point B26 in plot no-270.

B26-B27:-Line starting from point B26 plot no-270 of Mouza Jordiha no-1 passing through plot no-270, 126, 124, 7, 8, 10, 11, 5 and meeting at point B27 on the Eastern corner of plot no-4.

B27-B1:- Line starting from point B27 in Mouza Jordiha no 1 plot no-4 passing through plot no-3, 5, 2, 13, 15, 17, 19, 20, 21, 24 of Mouza Jordiha no-1 and entering in common boundary line of Mouza Jordiha no-1 and Garideh no-9 and passing through Guman River and crossing the common boundary line of Mouza Bara Dhamni no-7 and Garideh no-9 and meeting at point B1 in plot no-100 of Bara Dhamni no-7 P.S. Sunderpaharhi, Dist.-Godda.

* * * *

[No. 43015/10/2002-P.R.I/W.]
SANJAY BAHADUR] Dy. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 17 अप्रैल, 2003

का. आ. 1254.— केन्द्रीय सरकार पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र, भाग 2, खण्ड 3, उपखण्ड (ii) तारीख 29 सितम्बर 2001 में पृष्ठ 5411 – 5436 पर प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 2586 तारीख 25 सितम्बर, 2001, में निम्नलिखित संशोधन करती है, अर्थात :—

उक्त अधिसूचना की अनुसूची में :—

- (क) पृष्ठ 5415 पर, स्तंभ 1 में गाँव "भाटवास" के सामने स्तंभ 2 के सर्वेक्षण संख्या "189", के स्थान पर, सर्वेक्षण संख्या "190", रखा जाएगा ;
- (ख) पृष्ठ 5416 पर, स्तंभ 1 में गाँव "भाटवास" के सामने स्तंभ 2 के सर्वेक्षण संख्या "63 भाग-272", के स्थान पर, सर्वेक्षण संख्या "63 भाग-262", रखा जाएगा ;

[फा. सं. आर-31015/19/2001-ओ.आर-II]

हरीश कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 17th April, 2003

S. O. 1254.— In exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O 2586, dated the 25th September, 2001, published at page 5411 - 5436, in Part II, section 3, sub-section (ii) of the Gazette of India, dated the 29th September, 2001, namely:-

In the Schedule to the said notification:-

- (a) at page 5428, against village “Bhatwas”, in column 1, for survey number “189”, survey number “190” shall be substituted;
- (b) at page 5429, against village “Bhatwas”, in column 1, for survey number “63 part 272”, survey number “63 part 262” shall be substituted.

।।
[No. R-31015/19/2001-O.R.-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 21 अप्रैल, 2003

का. आ. 1255— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में मुन्द्रा पत्तन स्थित अपरिष्कृत तेल संस्थापन (सी.ओ.टी.) से पंजाब राज्य में भटिण्डा तक मुन्द्रा— भटिण्डा पाइपलाइन के माध्यम से अपरिष्कृत तेल के परिवहन के लिए गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड, (हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की समनुष्ठानी) द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

• और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, और जो इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इककीस दिन के भीतर उक्त भूमि के भीतर पाइपलाइन बिछाने के सम्बन्ध में, श्री ए. आर. चौधरी, सक्षम प्राधिकारी, मुन्द्रा-भटिंडा अपरिष्कृत तेल पाइपलाइन, पंजाब रिफाइनरी परियोजना, गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉरपोरेशन लिमिटेड की समनुषंगी), एल.पी.जी. बॉटलिंग संयन्त्र, हिन्दुस्तान पेट्रोलियम कॉरपोरेशन लिमिटेड, भगत की कोठी, जोधपुर-342005 को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

वक्तव्यस्थान : लूनी		जिला : जोधपुर		राज्य : राजस्थान	
क्रम सं.	गाँव का नाम	खसरा नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	बीघा बिल्डिंग
1	कागनाडा	99	3	1	10
		99/3		1	15

[फ. सं. आर-31015/33/2001-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 21st April, 2003

S. O. 1255.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of crude oil from crude oil terminal at Mundra Port in the State of Gujarat to Bathinda in the State of Punjab, through Mundra-Bathinda pipeline, a pipeline should be laid by Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited);

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of powers conferred by sub- section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification issued under sub-section (1) of section (3) of the said Act, are made available to the general public, object in writing to the laying of the pipeline under the land to Shri A.R.CHAUDHARY, Competent Authority, Mundra-Bathinda Crude Oil Pipeline, Punjab Refinery Project, Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited), L.P.G. Bottling Plant, Hindustan Petroleum Corporation Limited, Bhagat Ki Kothi, Jodhpur – 342005.

SCHEDULE

Tehsil : Luni		District : Jodhpur		State : Rajasthan	
Name of Village		Khasra No.	Part if Any	ROU-Area	
				Biga	Biswa
	1	2	3	4	
1	Kagnada	99		1	10
		99/3		1	15

[No. R-31015/33/2001-O.R.-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 21 अप्रैल, 2003

का. आ. 1256.— केन्द्रीय सरकार पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962, (1962 का 50), की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत के राजपत्र, भाग 2, खण्ड 3, उपखण्ड (ii) तारीख 8 दिसम्बर, 2001, के पृष्ठ 7299 से पृष्ठ 7309 पर प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय अधिसूचना संख्या का. आ. 3312, तारीख 6 दिसम्बर, 2001, में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना की अनुसूची में :—

(क) पृष्ठ 7301 पर, स्तंभ 1 में गाँव "कागनाडा" शीर्षक के अन्तर्गत

(i) सर्वे संख्या "99", भाग "1" के सामने "0-07", क्षेत्रफल के स्थान पर, "1-01", क्षेत्रफल रखा जाएगा ;

(ख) पृष्ठ 7302 पर, स्तंभ 1 में गाँव "सिनली" शीर्षक के अन्तर्गत

(i) सर्वे संख्या "150", भाग "1" के सामने "1-17", क्षेत्रफल के स्थान पर, "2-09", क्षेत्रफल रखा जाएगा ;

(ii) सर्वे संख्या "148", के सामने "2-14", क्षेत्रफल के स्थान पर, "2-15", क्षेत्रफल रखा जाएगा ;

(iii) सर्वे संख्या "147", भाग "1" के सामने "1-06", क्षेत्रफल के स्थान पर, "1-09", क्षेत्रफल रखा जाएगा ;

(iv) सर्वे संख्या "146", के सामने "0-01", क्षेत्रफल के स्थान पर, "1-13", क्षेत्रफल रखा जाएगा ;

(v) सर्वे संख्या "144", के सामने "0-08", क्षेत्रफल के स्थान पर, "0-18", क्षेत्रफल रखा जाएगा ;

(vi) सर्वे संख्या "141", के सामने "0-14", क्षेत्रफल के स्थान पर, "2-05", क्षेत्रफल रखा जाएगा ;

(vii) सर्वे संख्या "200", के सामने "1-13", क्षेत्रफल के स्थान पर, "2-00", क्षेत्रफल रखा जाएगा ;

(ग)

पृष्ठ 7307 पर, स्तंभ 1 में गाँव "झंवर" शीर्षक के अन्तर्गत

(i) सर्व संख्या "1369" के सामने "0-02", क्षेत्रफल के स्थान पर, "0-09", क्षेत्रफल रखा जाएगा ;

[फा. सं. आर-31015/33/2001-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 21st April, 2003

S. O. 1256.— In exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O 3312 dated the 6th December, 2001, published at pages 7309 to 7318, in Part II, section 3, sub-section (ii) of the Gazette of India, dated the 8th December, 2001, namely:-

In the Schedule to the said notification,-

(A) at page 7311, under the heading village "KAGNADA" in column 1, against survey no. "99", Part "1", for the area "0-07", the area "1-01", shall be substituted;

(B) at page 7312, under the heading village "SINLI" in column 1,-

- (i) against survey no. "150", Part "1", for the area "1-17", the area "2-09", shall be substituted;
- (ii) against survey no. "148", for the area "2-14", the area "2-15", shall be substituted;
- (iii) against survey no. "147", Part "1", for the area "1-06", the area "1-09", shall be substituted;
- (iv) against survey no. "146", for the area "0-01", the area "1-13", shall be substituted;
- (v) against survey no. "144", for the area "0-08", the area "0-18", shall be substituted;
- (vi) against survey no. "141", for the area "0-14", the area "2-05", shall be substituted;
- (vii) against survey no. "200", for the area "1-13", the area "2-00", shall be substituted;

(C) at page 7317, under the heading village "JHANWAR", in column 1, against survey no. "1369", for the area "0-02", the area "0-09", shall be substituted.

[No. R-31015/33/2001-O.R.-II]
HARISH KUMAR, Under Secy,

श्रम मंत्रालय

नई दिल्ली, 27 मार्च, 2003

का. आ. 1257.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय विशाखापटनम के पंचाट (संदर्भ संख्या 90/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-3-03 को प्राप्त हुआ था।

[सं. एल-12011/153/2001-आई. आर. (बी. II)]

सी. गंगाधरण, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 27th March, 2003

S.O. 1257.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 90/2001) of the Industrial Tribunal/Labour Court Vishakapatnam (A.P.) as shown in the Annexure in the Industrial Dispute between the management of Bank of Baroda and their workman, received by the Central Government on 27-03-2003.

[No. L-12011/153/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL CUM-
LABOUR COURT VISAKHAPATNAM

PRESENT : Shri Y. Dhilleswara Rao, B.A. LL.B.,
Chairman and Presiding Officer

Dated : 10th Day of March, 2003

I.T.I. D. (C) No. 90/2001

Reference No. L. 12011/153/2001 IR (B.II)

Dated : 31-10-2001

BETWEEN :

The General Secretary,
Bank of Baroda Employees Union,
C/o. Bank of Baroda,
Khairatabad Branch,
Hyderabad-500004.Petitioner/Workman

AND

The Regional Manager (A. P.-II)
Bank of Baroda,
Regional Office
D. No. 30-15-76, Dabagardens,
Visakhapatnam-530020.Respondent/Management

This is a reference made by Government of India, Ministry of Labour, New Delhi Under Sec. 10(1)(d) of Industrial Disputes Act, 1947 for adjudication of the dispute.

This dispute coming on for a final hearing before me in the presence of Sri K. Balakrishna, Advocate for workman and of Shri D. V. Subba Rao and Shri D. V. S. S. Somayajulu, Advocates for management; upon hearing the arguments of both sides and on perusing the entire material on record, the Court passed the following :

AWARD

1. This is a reference by the Government of India to adjudicate, "Whether action of the management of Bank of Baroda, imposing the punishment of reduction of pay to a lower stage by one increment for one year upon Sri K. Shankar Singh, Clerk-cum-Typist, is legal and justified ? If not to what relief the concerned workman is entitled to ?"

2. This reference was numbered as ITID (C) 90/2001 and notices were issued.

3. Employees union of Bank of Baroda (A.P.) filed claim statement on behalf of the workman K. Shankar Singh. In brief, the claim is that the circumstances, leading to the disciplinary action is on the allegation that there was exchange of words between the workman and the complainant A.S.N. Murthy in the bank premises within the presence of branch manager. The management should have called for explanation from both the staff members and enquire into the matter. But the management obtained complaint from the said ASN Murthy who is a member of N.C.B.E. against the workman who is a member of A.I.B.E.A., which amounts to unfair labour practice. The branch manager, simply forwarded the complaint to the regional office on 17-10-1996 without any comments. He also did not mention in the statement made by him on 2-11-96 before the investigating officer about the exact words alleged to have been uttered by the workman. The said branch manager on 5-3-1998 has surprisingly written to the regional office mentioning specific words alleged to have been uttered by the workman. Depositions given by management witnesses are mutually inconsistent on the incident alleged. The enquiry officer and the management have given undue weight to the evidence of management witnesses at all levels brushing aside the evidence of one Gopala Krishna who is an independent witness on behalf of the workman. That the alleged incident was with a view to extend better customer service, as such, even if the allegation was found to have been proved, it was trivial in nature and could have been ignored by taking a lenient view. That the punishment of reducing one increment and rendering financial loss to the workman is unwarranted.

4. The respondent/management filed counter denying the allegations. It was contended that the complaint dated 16-10-96 was addressed to the regional manager, Bank of Baroda, Visakhapatnam by A.S.N.Murthy and the same was forwarded by senior manager of Kakinada branch. Afterwards the senior branch manager of Rajahmundry branch, investigated on information gathered from the senior branch manager and other members of staff of Kakinada branch, and submitted his report. Thereupon, departmental action was initiated. The workman denied the charges levelled against him. Therefore, an enquiry officer/presenting officer etc. were appointed, as such, there is no unfair labour practice as alleged. The branch manager (MW1) has confirmed use of abusive words by the workman in the charge sheet. With a view to settle the matter amicably, the manager might have chosen not to reveal those words during the preliminary enquiry. All the management witnesses both in writing and in course of their evidence, deposed the indecent and abusing unparliamentary words. The enquiry officer has given due consideration to all the witnesses produced by both the parties before concluding his findings that the workman has no business to interfere with working of the ALPM Operator in issuing token and clearance of Cheque etc. The enquiry officer followed the rules of natural justice and fair play. He has given full opportunity at every stage. The enquiry report is reasoned and based on evidence. The union has confirmed the incident. That the punishment imposed is reduction of one increment for a period of one year and that was thought to be fit and proper in the circumstances of the case to maintain decency and decorum in the bank. The punishment is very lenient. Court cannot re-appreciate by sitting in appeal. Therefore, prayed to dismiss the claim statement.

5. Heard both sides. Workman filed memo not disputing the domestic enquiry proceedings. No witnesses are examined and no documents are marked for the workman. For the management also no witnesses are examined but Exs. M1 to M21 are marked by consent.

6. The point that arises for consideration is: Whether the charges 1 and 2 were proved ? If so whether the punishment is appropriate?

7. When matter was coming on for hearing on the validity of domestic enquiry, a memo was filed on behalf of workman, not disputing the enquiry proceedings. Consequently heard both sides U/Sec.II-A. It was incidentally submitted on behalf of the workman, some aspects challenging the validity of domestic enquiry. One among them is, Banking Employees Disciplinary Rules. It is submitted, since the Bank of Baroda is a schedule Bank, there shall be Banking Employees Disciplinary Rules, and those rules should be followed for taking disciplinary action. This argument was refuted by the other side. It was submitted there is a bipartite settlement wherein clause 19(b) provides to deal with misconduct and therefore, there is no application of Banking Employees Disciplinary Rules. As seen the charge sheet which is marked as Ex. M1, the alleged misconduct is under clause 19 of the Bipartite Settlement. The workman never disputed in Ex.M12

explanation and in Ex.M16 answer to the enquiry findings to the effect, Banking Employees Disciplinary Rules alone to be followed but not the bipartite settlement. Further there is nothing to show in what way the workman is prejudiced by the action as per the bipartite settlement.

8. The other aspect is on the failure to enclose list of documents and list of witnesses to the charge sheet. It is submitted, management should let the workman know with the charge sheet itself, the witnesses to whom it is proposing to examine and which of the documents it is relying on during enquiry. It is further submitted, the management has appointed an enquiry officer even before receipt of workman's explanation which is an inquirable irregularity. As seen Ex. M1 charge sheet, there is no separate list of witnesses and documents on behalf of the management. Some of the portions in Ex. M1 relevant are,

(1) workman was required to submit written statement to the enquiry officer,

(2) He was allowed to be defended by a representative, and

(3) he was allowed to produce documents and witnesses in support of his defence. Naturally one would require documents and statements of witnesses if any examined during preliminary enquiry, for filing of explanation to a charge sheet. It would have been fatal had the workman wanted them but management did not supply. This is a case where workman never demanded for supply and further no explanation to Ex. M1 was given at all.

9. Subsequently on 25-10-1997 under Ex. M3, presenting officer submitted list of witnesses and documents after the workman denying charges. Ex. M3 also reveals, the enquiry officer has asked the workman to submit his list of witnesses and documents. Ex. M4 discloses representative of the workman was permitted to peruse all the documents of management. Ex. M6 discloses, defence representative also submitted as many as 7 documents. It appears 4 witnesses were examined on the side of workman. The above circumstances reveal, firstly the workman never demanded for supply of documents and secondly no prejudice was caused to him.

10. Now coming to the third aspect namely, appointment of enquiry officer, before receiving explanation to the charge sheet, it is argued by learned representative of workman; that the management did not wait until workman submit his explanation, but presupposing things, appointed an enquiry officer and that action of management is illegal. He relied on a decision reported in 1992 (1) All India Services Law journal at page No.44 between B. S. Nambiar, "Tharangam"—appellant and Union Bank of India and another-Respondents. On facts that was a case where enquiry officer was appointed on 21.5.1982 and the delinquent filed his statement of defence on 10-6-1982. It was urged on behalf of the delinquent, therein that by so appointing an enquiry officer. Sub Regulation 3 of Regulation 6 of Union Bank of India Officer Employees (D & A) Rules, 1976 was violated. His Lordship observed,

"The enquiry proceedings were vitiated for not confirming to the requirements contemplated under Regulation 6 of the Regulations. In this view, all proceedings have to be quashed. Petitioner should be reinstated in service without any delay. But I make it clear that this will not precluded the 1st respondent from initiating the enquiry on the same charges in accordance with the provisions of the Regulations."

This observation was made since, there was violation of express requirement under the Union Bank of India Officer Employees (D & A) Rules, 1976. But in the case on hand, there is a tripartite settlement and was followed to examine the misconduct. It is not known whether there is a regulation similar to 6(3) of Union Bank of India Officer Employees (D & A) Rule, 1976 in the tripartite settlement. My considered view of the matter is irrespect of such regulation in the tripartite settlement, management can appoint an enquiry officer only after receiving explanation to charge sheet. Some times management may consider, explanation given was sufficient and enquiry unwarranted. Some times delinquent employee may admit charges in which case, regular enquiry may not be necessary. Here Ex. M1 charge sheet and Ex. M2 appointing enquiry officer are dated 12-9-1997.

11. The workman in this case has denied the charges when the charges were read over to him on 25-10-1997. It appears, workman has not filed his explanation to Ex. M1 charge sheet. Ex. M12 statement of defence by the workman is there, but it is undated. Even in Ex. M12, involvement of workman leading to the incident was admitted to a considerable extent. In Ex. M1 charge sheet what was alleged is, one Mr. K. Venkateswara Rao came to current account of the bank on 15-10-1996 and presented a Cheque for payment. At that time the clerk at the counter was one A.S.N. Murthy. The said A.S.N. Murthy informed the customer the Cheque would be cleared by 1.00 p.m. as there were no funds in the account to meet the Cheque. While A.S.N. Murthy was explaining to the customer that in case he requires funds against the clearing, he should take the initial of the Branch Manager. Then the workman went to Sri A.S.N. Murthy and requested to issue token against the Cheque. Then A.S.N. Murthy pointed out there is no initial of the branch manager on the Cheque. Then the workman forcibly taken the Cheque from the hands of A.S.N. Murthy and tried to take token from the counter stating the branch manager told him to take the token and send that customer along with cash. Thereupon A.S.N. Murthy went to the cabin of Branch Manager and was appraising the events. At that time the workman entered the cabin violently, shouted and abused A.S.N. Murthy. The 1st charge is, disorderly and indecent behaviour in the Bank premises. The second charge is failing to show proper consideration, courtesy and attention towards officers and other employees of the branch.

12. In Ex. M12 the workman stated,

"On 15-10-96 Mr. Y. Gopala Krishna came to me and I have introduced him to the senior Branch Manager and he requested of payment against a Cheque of Rs. 17,000/- and

the senior branch manager advised me to attend to Mr. Gopala Krishna and get the payment after his initial. Then he went to A.S.N. Murthy and asked for token but he refused. Ultimately in the interest of customer service, he tried to take a token, saying, 'let us dispose the customer first and discuss later'. A.S.N. Murthy abused for that. I disposed of the customer to his satisfaction. At that time A.S.N. Murthy went to the Senior Manager's cabin and complained against me. At that point of time I also entered the cabin with an intention to explain about the matter of good customer service and the incident to the Senior Branch Manager. While I was entering A.S.N. Murthy abused and asked to get out."

Therefore, it is evident, the whole incident except abusing in vulgar words is admitted. Charges 1 and 2 are not that he committed misconduct by abusing in vulgar words. Therefore, for the reasons discussed above, I do not agree there was any illegality or prejudice caused to the workman, by appointing enquiry officer before hand.

13. The material on record, is clear the workman interfered with work unconcerned to him. He went to the extent of issuing token to a customer inspite of objection by the clerk concern (A.S.N. Murthy). Workman has to justify his action of forcibly issuing token to the customer. That aspect is to be examined. According to workman, the senior Branch Manager requested him for payment to the customer Y. Gopala Krishna and also advised the workman to attend to the said customer and see the payment after his initial. The Senior Branch Manager is examined. The said Branch Manager is M. Ramakrishna Rao. He was examined as MW1. His evidence is that A.S.N. Murthy is responsible for the tokens that were given to him. Branch manager authorizes payment against clearing. The authorization is by way of putting initial on the Cheque itself. He further stated that he initialed the said Cheque when the workman again came to his cabin and informed that A.S.N. Murthy was insisting for the initial.

14. Therefore, the said A.S.N. Murthy was justified in not issuing token since the concern Cheque was not initialed by MW1. In fact, in Ex. M12 the workman never stated that he picked up the token and gave it to the customer after the Cheque was initialed by MW1. In short the version was to the effect, when A.S.N. Murthy refused to give token, the workman gave the token to customer saying, "let us dispose the customer first and discuss later". Workman specifically stated in Ex. M12, "Branch Manager advised me to attend to Mr. Gopal Krishna and got the payment after his initial". Therefore demand for token by workman, even before obtaining initial of MW1 on the Cheque is nothing but high handed behaviour of the workman. MW1 specifically stated the actual words uttered by workman against A.S.N. Murthy. Thus, the workman's behaviour was totally unwarranted. He went far beyond what is necessary to help a bank customer.

15. On a careful consideration of the material on record, I hold the finding, charges 1 and 2 are proved is not erroneous. The punishment awarded is not disproportionate. Accordingly, the point is answered and

the reference is adjudicated. Each party to bear its own costs.

Typed to my dictation, given under my hand and seal of the Court this the 10th day of March, 2003.

Y. DHILLESWARA RAO, Presiding Officer
APPENDIX OF A EVIDENCE

Witness Examined

For Workman : None

For Management : None

DOCUMENTS MARKED

For Workman : Nil

For Management :

Ex.M1: 12-09-1997: Charge sheet

Ex.M2: 12-09-1997: Notice reg. Appointment of enquiry officer

Ex.M3: 25-10-1997: Enquiry proceedings

Ex.M4: 19-01-1998: Enquiry proceedings

Ex.M5: 14-03-1998: Enquiry proceedings

Ex.M6: 15-05-1998: Enquiry proceedings

Ex.M7: 24-07-1998: Enquiry proceedings

Ex.M8: 21-09-1998: Enquiry proceedings

Ex.M9: 09-10-1998: Enquiry proceedings

Ex.M10: 16-11-1998: Written brief of the presenting officer

Ex.M11: 30-12-1998: Written brief of the defence

Ex.M12: — : Written statement of defence ; by charge sheeted employee

Ex.M13: 04-02-1999: Written brief of the presenting officer

Ex.M14: 24-03-1999: Enquiry report

Ex.M15: 01-04-1999: Order of disciplinary authority

Ex.M16: 26-04-1999: Explanation of the workman

Ex.M17: 22-07-1999: Order regarding proposing punishment

Ex.M18: 29-07-1999: Proceedings with regard to personal hearing

Ex.M19: 31-07-1999: Order of disciplinary authority

Ex.M20: 09-09-1999: Appeal of CSE to the Appellate Authority

Ex.M21: 22-11-1999: Order of appellate authority.

नई दिल्ली, 28 मार्च, 2003

का. आ. 1258.—औद्योगिक विवाद अधिनियम, 1947

(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, कोलम के पंचाट (संदर्भ संख्या 4/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2003 को प्राप्त हुआ था।

[सं. एल-12012/170/98-आई. आर. (बी. II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 28th March, 2003

S. O. 1258.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 4/99) of the Industrial Tribunal, Kollam as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 28-03-2003.

[No. L-12012/170/1998-IR (B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

**IN THE COURT OF THE INDUSTRIAL TRIBUNAL:
KOLLAM**

(Dated, this the 6th day of March, 2003)

PRESENT:

Shri C.N. Sasidharan
Industrial Tribunal

IN

Industrial Dispute No. 4/99

Between :

The Regional Manager, Central Bank
of India, Gopal Building, Thyvila Road,
Trivandrum ...Management
(By Sri. R. Kunjukrishnan Potti,
Advocate, Trivandrum)

AND

Sri. M. K. Abdul Latheef, Kassim Manzil,
Poonthura P.O., Trivandrum. ...Workman
(By Sri M.S. Vijayachandra Babu,
Advocate, Trivandrum)

AWARD

The Government of India as per Order No. L-12012/170/98/IR(B-II) dated 27-1-1999 have referred this industrial dispute to this tribunal.

The issue for adjudication is the following :

“Whether the punishment of dismissal from Bank’s service without notice by order dated 21-7-1993 inflicted on Sri. M.K. Abdul Latheef, Clerk, Peroorkada branch by the management of Central Bank of India, Trivandrum is proportionate to the gravity of the misconduct committed by him? If not, what relief the workman is entitled to?”

2. The workman involved in this dispute Sri. M.K. Abdul Latheef has filed a detail claim statement. The contentions are briefly as below : The workman has entered in the service of the management on 2-11-1970 and promoted to the clerical cadre on 10-5-1980. While working so he was chargesheeted and placed under suspension.

Thereafter he was dismissed from service on the basis of an enquiry finding. The dismissal is irregular, illegal and against law. He was chargesheeted alleging that while working at Peroorkada branch had made false declaration that he had undertaken his onward journey under Leave Fare Concession (LFC) with family and claimed re-imbursement to the extend of Rs. 9,742/- without undertaking the journey. The chargesheet was issued under para 19(5)(j) of the Bipartite settlement dated 9-10-1996 as a gross misconduct. Before framing charges he has submitted explanation admitting the guilt but explaining the circumstances that due to illness of his wife he had to cancel the trip all of a sudden and he could not remit back the amount as he was compelled to diver it for the urgent treatment of his wife who was carrying at that time. He has also expressed regret and remitted back the entire amount with interest. The management conducted the enquiry. According to him he never tried to hide anything. His wife have been undergoing treatment for Alergic Asthmatic trouble. As she was carrying for a second time and she developed some Gynae problems. So he had to postpone the journey twice. But the trip had to be cancelled as his wife fell ill again. He had to spent a lot of money for the treatment of his wife and the money in hand was utilised for it and under that precurious conditions he had to submit a bill to the bank. The punishment of dismissal is highly grave and shockingly disproportionate. While imposing punishment disciplinary authority has considered the past record of service of the workman such as reinstatement in service after discharging and also punishment of stoppage of increment subsequently. According to him he was absolved from the charges earlier by the Appellate Authority and was reinstated with all benefits. So there is no disciplinary action against him. The bank has taken a lenient view in the matter of punishment and awarded lesser punishment for similar or grave charges levelled against some other persons. The disciplinary authority had not considered that and enlightened approach with the demands of the situation and philosophy and spirit of the times requires to be made. Further the Supreme Court has pointed out that justice must be tempered with mercy and that the earning workman should be given an opportunity to reform himself and prove to be loyal and disciplined employee of the management. The workman was not given such a chance. The workman has suffered more than seven years with mental agony, financial stress want of peace of mind etc. and he is remaining unemployed since the date of dismissal. The claim is for reinstatement in service with all benefits.

3. The management opposes the claim. The contentions of management are briefly as below: The workman was chargesheeted for gross misconduct and after enquiry he was dismissed from service. The Appellate Authority also dismissed his appeal. The workman has admitted his guilt. As per the first Bipartite settlement dated

19-10-1966 the charge against the workman is a gross misconduct as per clause 19.5 of this settlement which he has admitted. As per clause 19.6 of the settlement an employee found guilty of gross misconduct be imposed with a punishment of dismissal without notice. Hence the action taken by the management is only in accordance with law. On a previous occasion punishment of stoppage of increment was imposed on account of gross misconduct on the part of the workman and he was once discharged from service but was reinstated on the findings given in appeal. It is thus clear that the claimant is in the habit of committing misconduct which is not one warranting from an employee in a bank. The punishment imposed is not harsh or disproportionate as alleged. The principle laid down by the Supreme Court are not applicable to the facts of this case which is to be applied considering the facts and circumstances of each case. He has admittedly committed gross misconduct warranting dismissal from service earlier and punishment of stoppage of increment was imposed taking into account of the facts that the employees may reform and prove to be disciplined and will show integrity. But the workman again committed misconduct. It is humanly impossible to presume that the claimant will undertake a long journey at an advanced stage of pregnancy of his wife especially when she used to fell ill intermittently even according to the claimant. He has availed monetary benefits for the alleged journey. It was a pre-mediated plan to get undue enrichment. The postponement of journey itself was a crooked attempt on his part to justify the illegal acts. There was no illness or indeposition as alleged by him. The enquiry officer as well as the Appellate Authority was convinced of the misconduct committed by the workman. The bank solely and mainly dealing with public and public money. The integrity, honesty and a conduct free from all blemishes is the one warranted from a bank official. The conduct of a person like the claimant is not conducive or well becoming of a bank employee. The conduct both past and subsequently of the claimant proves that it is not in the interest of the bank to keep him in service any longer. According to the management the workman is not entitled to any relief.

4. No oral evidence has been adduced by either side. Exts. M1 to M5 have been marked on the side of the management on mutual agreement.

5. As per the issue under reference the only point arising for consideration is whether the punishment of dismissal inflicted on the workman is proportionate to the gravity of the misconduct committed by him. He was chargesheeted under para 19.5J of the Bipartite settlement dated 9-10-1966 which is admittedly a gross misconduct. It is also not disputed that for such gross misconduct in term of clause 19.6 of the Bipartite settlement be imposed with a punishment of dismissal without notice. The workman has admitted the guilt and the same is a gross misconduct on his part.

6. In the explanation submitted by the workman to the management it is stated that since his wife fell ill he had to cancel the trip all of a sudden and the advance could not be remitted back as he was compelled to divert the amount for urgent treatment of his wife. In Ext. M5 enquiry findings the enquiry officer has found on the basis of medical certificate that the wife of the workman was suffering from Bronchitis only. It is also not disputed that the workman had postponed the journey for two occasions which were informed to the management but thereafter he had not informed about the cancellation of the journey. There is also no evidence in the enquiry or before this Tribunal that his wife was suffering from Gynae problem which was the reason for cancellation of the trip. Further even according to him his wife was in the advanced stage of pregnancy and it is quite unbelievable that he had planned a long journey from Trivandrum to Bombay. The circumstances that he had allegedly postponed the journey twice and that he had spent huge amount for the treatment of his wife can only be considered as an afterthought and a pre-meditated plan to escape from the misconduct committed by him. It is also proved that his attempt was for getting monetary benefits by availing leave. It is not proved in the enquiry that he had spent more amount for the treatment of his wife. There is also no evidence that the last journey was fixed on the advice of the Doctor. Ext. M5 enquiry finding shows that the enquiry officer has rightly came to the conclusion about the misconduct of the workman.

7. The learned counsel for the workman would contend that immediately after getting charge memo he has submitted explanation admitting the guilt and also remitted back the advance obtained for the journey. It is also contended that LFC is only a concession and the workman has not misappropriated any amount. Further while awarding the punishment of dismissal the disciplinary authority has not considered the principle laid down by the Supreme Court as stated in the claim statement of the workman. According to the learned counsel the punishment of dismissal is shockingly disproportionate to the gravity of the misconduct.

8. As stated by me above the workman has committed gross misconduct as per the First Bipartite settlement and for such misconduct punishment of dismissal is warranted. Further he was admittedly chargesheeted for two earlier occasions and once he was dismissed from service. No doubt he was reinstated on the findings of the Appellate Authority. Thereafter he was imposed with the punishment stoppage of increment though the misconduct proved was a gross misconduct. Thus the workman had two opportunities to reform himself earlier. But inspite of that he has not reformed and committed another misconduct again. It is specific to note that the bank is solely and mainly dealing with public and public money. In such an industry integrity, honesty and

a conduct free from all blemishes is one warranted from one officials as pleaded by the management. One has to repose confidence and test his integrity and trustworthiness on the basis of his act and deeds both past and present. Here the conduct of the wokman both past and subsequent proves that it is not advisable to keep him in service in the interest of the bank as contended by the management. The continuation of such a person in the service of the bank will definitely affect the image of the bank in the public. It may be true that the management has taken lenient view in such similar cases as pointed out by the learned counsel for the workman. But no such specific case has been pointed out and the circumstances involved in those cases are also not known. Further the workman has been chargesheeted not for the first time but for the third time. Considering the misconduct committed by him and his past record of services, present punishment inflicted by the management cannot be said to be disproportionate or harsh. However considering the fact that the LFC is only a consideration granted by the management to the employees, his admission of the guilt and repayment of the amount obtained by him and the other circumstances that he is unemployed since his dismissal and only earning member of his family. I am of the view that in the interest of justice the workman is to be given some relief. According to me, the modification of the punishment as discharge instead of dismissal will meet the ends of justice so that the workman will be able to get pension and other connected monetary benefits.

9. In view of what is stated above, an award is passed modifying the punishment of dismissal inflicted to the workman Sri Abdul Latheef by the Central Bank of India as discharge.

C.N. SASIDHARAN, Industrial Tribunal

APPENDIX

Documents marked on the side of the Management

- Ext. M1 Photostat copy of memo issued to the workman from the Regional Manager of the management bank dated 31-10-1992.
- Ext. M2 Photostat copy of the final order issued by the disciplinary authority with management dated 21-7-93.
- Ext. M3 Photostat copy of the dismissal order issued to the workman dated 21-7-1993.
- Ext. M4 Photostat copy of the order of the Appellate Authority dated 21-7-1993.
- Ext. M5 Report of the enquiry Officer with connected documents.

नई दिल्ली, 28 मार्च, 2003

का. आ. 1259.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पारादीप पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/त्रिम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 112/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2003 को प्राप्त हुआ था।

[सं० एल-38011/3/96-आई. आर. (एम)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 28th March, 2003

S.O. 1259.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No. 112/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Paradip Port Trust and their workman, which was received by the Central Government on 28-3-2003.

[No. L-38011/3/96-IR (M)]

C. GANGADHARAN, Under Secy

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT:

Shri S.K. Dhal, OSJS (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

Tr. Industrial Dispute Case No. 112/2001

Date of conclusion of the hearing—10th March, 2003

Date of Passing Award—20th March 2003

BETWEEN:

The Management of the Chairman,
Paradip Port Trust,
Paradip-754 142 . . . 1st Party-Management
AND

Their Workman, represented through the
General Secretary, Utkal Port and Dock
Workers Union, Paradip Port,
Paradip-754 142. . . 2nd Party-Union.

APPEARANCES:

Mr. H.K. Mohanty, Advocate.	... For the 1st Party- Management
Mr. Jagannath Das, Advocate.	... For the 2nd Party Union.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-38011/3/96-IR (Misc.), dated 27-11-1996:

Demand No. 2, 3 & 10:

“Whether the Management of Paradip Port Trust is justified in withholding their decision to sanction the leave for the period from 31-5-1995 to 29-9-1995 (122 days) and from 24-10-1995 to 30-10-1995 (7 days) to Shri Sudakar Mantry, Sr. JE (Mechanical)? If not, to what relief the workman is entitled?”

“Whether the Management of Paradip Port Trust is justified in withholding and recovering the payment made to Shri Sudakar Mantry, Sr. JE (Mechanical) in view of the award of the Industrial Tribunal and Paradip Port Trust Management’s Office Order No. DM/FLD/P/Con/2/89, dated 1-6-1989? If not, to what relief the workman is entitled?”

“Whether the claim of the Union regarding 40 workers as per list enclosed should be treated as regular workers of Paradip Port Trust and paid regular wages at par with the similar workers of Paradip Port Trust Management? If so, to what relief the workers are entitled and from which date?”

2. The case of the 2nd Party as per the Claim Statement reads as follows.

As regards Demand No. 2, the grievance of the 2nd Party is that the 1st Party-Management did not sanction the leave with an oblique purpose to harass him. As regards the Demand No. 3 the 2nd Party has pleaded that, the Industrial Tribunal in I.D. Case No. 5/1985 (Central) passed award in favour of Shri Sudhakar Mantry recording that the action of the Management for dismissing the said Mantry was illegal. Shri Mantry was directed to be reinstated with full back wages. In pursuance to the direction of the Tribunal the 1st Party-Management paid the leave salary and all other benefits and subsequently the 1st Party-Management passed order for recovery of the said amount of Rs. 17,403.39 which was paid to Shri Mantry towards encashment of leave and ex-gratia in lieu of bonus. According to the 2nd Party the above action of the 1st Party-Management is illegal and the 2nd Party further submits that the aforesaid action of the 1st Party-Management is alleged to have been taken on the basis of the judgement of the Hon’ble Orissa High Court in the case of Agasti Kumar Das which was disposed of in the year 1991. As regards Demand No. 10 the case of the 2nd Party is that there were 40 workers are involved in this reference and out of the said 40 workers, 30 workers they are doing the work of loading, unloading and stacking since 1975. The remaining 10 workers have been doing the said

work since 1994 continuously. Though they have been doing the similar job, which are being done by the Khalasi and helper of the Central Stores of the 1st Party-Management less payment is made and their services have not been regularized though the work is perennial in nature and available. The 1st Party-Management to deprive these workers from the various benefits available to the regular workers is adopting a method by treating them as the contractor labourers. The grievance of 40 workers for regularization of service in the Central Store and for payment of consequential benefits to them at par with regular workers have not been taken into consideration in spite of protest. So, they raised a dispute and after failure of conciliation the present reference has been made. In the claim Statement relief has been claimed in respect of Demand No. 3 and 10 and the relief in respect of Demand No. 1 was granted during the pendency of the reference. They have prayed to issue direction to the 1st Party-Management to refund the said amount of Rs. 17,403.39 with compound interest at the rate of 18% per annum to Shri Sudhakar Mantry and pass order to regularize the services of the 40 workers from 25-1-1989 with further direction for payment of regular wages as admissible to the Khalasi and Helpers of the Central Store of the 1st Party-Management.

3. The 1st Party-Management has filed their Written Statement. As regards Demand No. 2 it has been pleaded that, leave has been sanctioned. So, the question of harassing Shri Mantry does not arise. While admitting the recovery, the 1st Party-Management has tried to justify the action basing on the observations made in the case of Agasti Kumar Das—Versus—Paradip Port Trust in Original Crl. Misc. Case No. 95/89 and O.J.C. No. 2072/88 wherein it has been held that, an employee on reinstatement after dismissal would not be entitled to any other ex-gratia in lieu of bonus or encashment of leave for the period he was under dismissal. As regards Demand No. 10, the 1st Party-Management has admitted that the 40 workers were working in the Central Stores for loading, unloading and stacking of all the materials but they have taken the stand that those workers are the labourers of the contractors who were supplying the materials to the Central Stores. According to the 1st Party-Management as per the terms of purchase order the suppliers/manufacturers and contractors deliver the materials at the Central Stores as per their own arrangement. The terms and conditions of purchase order is that such charges including transportation, loading, unloading and stacking. So, there is no employer and employee relationship between the 1st Party-Management and the 40 disputants and the question of their regularization or payment of financial benefits at par with the regular employees of the Paradip Port Trust does not arise.

4. On the above pleadings of the parties, the following issues have been settled.

ISSUES

1. Whether the Management having exercised its statutory power under fundamental Rules 54-A (3) vide order dated 4-4-1989 and re-affirmed by another order, dated 1-6-1989, has any further power under the said F.R. 54-A (3) to recall or reverse the aforesaid order without hearing the concerned employee and to recover Rs. 17,403.39 from Shri S. Mantry after implementing the award in I.D. Case No. 5 of 1985 (C)?
2. Has the Chairman any legal competency to nullify the statutory order of the disciplinary authority dated 4-4-1998 and 1-6-1989 in exercising his administrative power by his order dated 26-7-1991 and 16-8-1991?
3. Can the definition of wages in the I.D. Act be imported to restrict or limit the statutory power and discretion of the disciplinary authority conferred under F.R. 54-A (3)?
4. When the order of dismissal is set aside and Shri Mantry is reinstated with full back wages and the disciplinary authority in exercise of his statutory discretion has treated the period of suspension and dismissal “as duty for all purposes”, has the Chairman of Paradip Port Trust who is not the Disciplinary Authority, is competent in law to reverse/set aside the said orders dated 4-4-1989 and 1-6-1989 passed under F.R. 54-A (3)?
5. Whether it is legal and/or justified to continue those 40 workmen as irregular/casual/contract Labour who have been engaged continuously in the work of loading, unloading and stacking of materials/goods in the Central Stores of Paradip Port Trust for the last two decades?
6. Whether the above practice of Paradip Port Trust constitutes unfair labour practice and “Forced Labour” prohibited under I.D. Act and under Article 23 of the Constitution of India?
7. Whether the Port being an instrumentality of the Central Government can be permitted under the Constitution to act arbitrarily contrary to Articles 14, 16 read with Article 39(d) and Article 21 of the Constitution?
8. Whether those 40 workers are deemed to be the workers of Paradip Port or Contractor Labour under the law?
9. Whether Shri Sudhakar Mantry and the 40 workers of Central Stores are entitled to the relief as prayed in the Statement of claims read with the Schedule of reference.
5. Both the parties have adduced oral evidence in support of their case and they have also exhibited certain documents.

FINDINGS

ISSUE NO. 1, 2, 3 & 4

6. These four Issues have been framed to answer the Demand No. 3 whether the action of the 1st Party-Management by making recovery of Rs. 17,403.39 is justified? So for convenient sake I have taken all these Issues.

The 1st Party-Management has not disputed that award was passed in favour of Shri Mantry in declaring his dismissal as illegal with further order of the Tribunal for reinstatement with full back wages. After the award the 1st Party-Management had paid all the dues including the ex-gratia in lieu of bonus and encashment of leave for the period Shri Mantry was under dismissal. But the 1st Party-Management has taken the stand that after payment in view of the observation of the Hon'ble High Court, in Original Crl. Misc. case No. 95/89 and O.J.C. No. 2072/88, that a person would not be entitled to any ex-gratia bonus and encashment of leave during the period of dismissal so the recovery has been made. So, according to the 1st Party-Management the above action is justified. On the other hand, the 2nd Party has taken the stand that, the observation of the Hon'ble High Court was made after the payment was made to Shri Mantry and in the case where observation was made Shri Mantry was not a party. Moreover before recovery no opportunity was given to Shri Mantry to show cause as to why the amount would not be recovered from him. So, according to the 2nd Party the action of the 1st Party-Management by recovering the amount is unjustified and illegal.

7. The Tribunal while passing award has directed for reinstatement with full back wages to Shri Mantry and the amount which was paid to Shri Mantry includes ex-gratia bonus and encashment of leave. Admittedly, after payment, the Hon'ble High Court were pleased to observe that a person during period of dismissal would not be entitled for ex-gratia bonus and for encashment of leave. That observation was made in case of another workman of the Management. So, the 1st Party-Management taking advantage of the said observation passed order for recovery of the same. Mr Jagannath Das, Learned Counsel appearing on behalf of the 2nd Party has submitted that the judgement passed by the Hon'ble High Court (marked as Ext.-12) is a judgement in rem but not in personam and so it would have no universal retrospective effect so as to unsettle and settled things. According to Mr. Das, the matter was conclusively and finally decided as per the order of the competent Authority (Ext.-11) which was prior to the judgement of the Hon'ble High Court (Ext.-12) and the authority should not have taken a step for recovery of the amount, which was paid to Shri Mantry. Moreover, the 1st Party-Management also failed to give an opportunity to Shri Mantry to show cause before recovery. A lengthy argument has been advanced by both the parties in this regard. The position of law as observed by the Hon'ble

High Court of Orissa relaying in the case of the Management of Andhra Cement Scientific Co., Masulipatnam, -Versus-The Presiding Officer, Labour Court, Government of A.P., Guntur and another reported in 1971 LAB. I.C. 513 has not been disputed by Mr. Das, the Learned Counsel appearing on behalf of the 2nd Party. His grievance is that by the time the payment was made to Shri Mantry the observation of the Hon'ble High Court was not there. Moreover in the said judgement, Shri Mantry was not a party. So, according to Mr. Das, the observation made by the Hon'ble High Court of Orissa in the case of Agasthi Kumar Das would not be applicable to Shri Mantry. After hearing of both the parties, in my opinion, the contention advanced by Mr. Das has got much force. The competent authority after due consideration had passed order for payment of all the financial dues to Shri Mantry. By that time there was no scope for the 1st Party-Management that an observation would be made in future. When Shri Mantry was not made as a party to the said case and the judgement has been passed after the payment, in my opinion, the recovery of the amount earlier paid to Shri Mantry can not be stated as legal. In other words I agree with Mr. Das that, the Management of the Paradip Port Trust is not justified in withholding and recovering the payment made to Shri Sudhakar Mantry. In that case, Shri Mantry is entitled to get back the amount which has been recovered as the action of the 1st Party-Management was done on a bona fide belief and they can not be penalized for making order for payment of interest as prayed for. This Issue is answered accordingly.

ISSUE NO. 5, 6, 7 & 8

8. I have taken all the above four issues together for convenient sake. The claim of the 2nd Party regarding regularization and payment of wages at par with the permanent employees of the 1st Party-Management has been resisted on behalf of the 1st Party-Management on the ground that, no order of appointment or engagement was issued to the disputants to work against any post lying vacant and that, the disputants, have failed to prove that they have worked for more than 240 days in a calendar year. Further stand of the 1st Party-Management is that the disputants have worked for the contractors and received payments from them as admitted by their witnesses. Admitting some payments to have been made by the 1st Party-Management, it is submitted by the 1st Party management that, those payments have been made to the disputants for the work done by them on contract basis. According to Mr. Mohanty, the Learned Counsel appearing on behalf of the 1st Party-Management that this would suggest that, there exists no relationship of employer and employee between the parties. The documents exhibited on behalf of the 2nd Party, according to Mr. Mohanty, rather supports the case of the 1st Party-Management than the case of the 2nd Party. Mr. Mohanty has also taken the stand that the claim of the disputants for regularization or

payment of wages at par with permanent employees of the 1st Party-Management is not maintainable in view of the fact that, it has been made after long period. Reliance has been placed by Mr. Mohanty in the case of Steel Authority of India Limited and others, -Versus-National Union Water Front Workers and others reported in (2001) 7 SCC and in the case of Shalimar Works Ltd.,-Versus-Their Workmen reported in AIR 1959 SC 1217.

9. On the other hand, Mr. Das, the Learned Counsel appearing on behalf of the 2nd Party has submitted that, the work of loading, unloading and stacking of the materials belonging to the Central Stores of the 1st Party-Management and when admittedly the disputants have rendered services for a long period for the above works of the 1st Party-Management it cannot be denied that, they are not working for the 1st Party-Management. According to him the documents exhibited by him and the evidence of both the parties if examined critically the only conclusion that would be arrived that the disputants have rendered their services for the 1st Party-Management only. In other words there exists relationship of employer and employee. According to Mr. Das, under this back ground the question of production of letter of appointment or engagement does not arise, so also there is no necessity to prove that the disputants have worked for 240 days in a calendar year in view of the fact that, the witness examined on behalf of the 1st Party-Management have admitted that, the disputants are found working for a petty long time. Mr. Das has further submitted that, the documents of the 1st Party-Management mainly the Ext-15 and Ext-15/1 reveals that, the 1st Party-Management had felt that the disputants should be regularized for the work done by them and accordingly proposal was submitted to the higher authorities which could not be materialized. So, that would suggest that the claim of the disputants are genuine and they are entitled to be regularized are to be paid at par with the permanent employees of the 1st Party-Management. Reliance has been placed in the case of Hussainbhai-Versus-Alath Factory Tezhilali Union, reported in AIR 1978 SC 1410, in the case of Secretary, H.S.E.B.,-Versus-Suresh and Others, reported in (1999) 3 SCC 601, in the case of Indian Overseas Bank-Versus-Indian Overseas Bank Staff Canteen Workers union, reported in 2000 LAB. I.C., 1495 SC, in the case of Orient Paper and Industries Ltd.,-Versus-State of Orissa reported in 1991 Supp (1) SCC 81 and in the case of Hydro (Engineers) Pvt. Ltd.,-Versus-their Workmen reported in AIR 1969 SC 182.

10. After hearing of both the parties, and examining oral and documentary evidence adduced on behalf of both the parties and keeping the observations of the Hon'ble High Courts and Supreme Court in mind on which both the parties have placed reliance, I find much force in the contention made on behalf of the 2nd Party. No doubt, the witness examined on behalf of the 2nd Party has admitted that at times they have received payments from the contractors,

but he has explained that the payments have been made as per the direction of the 1st Party-Management. Ext.-6 series reveals that the payments have been made to the disputants for the work of loading, unloading and stacking of the materials of the Central Stores. The 1st Party-Management has taken the stand this work was done on contract basis. Even if it is accepted that the work was done on contract basis, in my opinion, this type of work is permanent and perennial in nature, which should have not been allowed to be done either through Contractor or on contract basis. The Ext. 15/1 is the note given by the Manager (Materials) of the 1st Party-Management would reveals that, the claim of the disputants for regularization of their services was taken into consideration and accordingly a proposal was submitted for their regularization. But due to some reasons, the matter could not be decided and no order of refusal has been passed. So, in my opinion, the 1st Party-Management after realizing the difficulties of the disputants and considering their nature of work had taken step for their regularization. When the disputants have rendered their services for a petty long time, working for the Central Store of the 1st Party-Management and the work attended by them being permanent and perennial in nature they are entitled to be regularized and alternatively to be paid at par with the permanent employees of the 1st Party-Management. No Contractor/supplier has been examined on behalf of the 1st Party-Management to say that, they had arranged the disputants for loading, unloading and stacking the materials brought to the Central Store. Even if it is accepted for the argument sake that they have worked for the supplier but the true fact is that they have loaded and unloaded the materials of the Central Stores of the 1st Party-Management. So, in that case, I agree with Mr. Das that, there is relationship of employer and employee between the parties. When the disputants have rendered their services for a petty long period and is still continuing and the work being permanent and perennial in nature, in my opinion, the claim of the disputants for their regularization and for payment of wages at par with the permanent employees of the 1st Party-Management is genuine and justified.

11. As regards limitation, I am not inclined to accept the submission made on behalf of the 1st Party-Management. The provisions of the Limitation Act would not be applicable to the Industrial Disputes Act. But it is well settled that, while passing the award the Court should consider to grant relief considering the time limit. So, the submission made on behalf of the 1st Party-Management that the reference is not maintainable on the ground of limitation can not be accepted. Hence these four Issues are answered in favour of the 2nd party.

ISSUE NO. IX

12. In view of my findings given in respect of issue No. I to issue VIII referred to above, the disputants of the 2nd party are entitled to be regularized by the 1st Party-

Management and are also entitled to get their wages at par with the permanent employees of the 1st Party Management from the date of raising the dispute.

13. Reference is answered accordingly.

Dictated & Corrected by me.

S. K. DHAL, Presiding Officer

**BEFORE THE C.G.I.T.-CUM-LABOUR COURT:
BHUBANESWAR**

Tr. I.D. Case No. 112/2001

List of the Witnesses examined on behalf of the 2nd Party-Workman.

W.W. No.1. Shri Babaji Charan Behera.

W.W. No.2. Shri Sudhakar Mantry.

List of the Witnesses examined on behalf of the 1st Party-Management.

M.W. No 1. Shri Gokulananda Sahoo.

M.W. No 2. Shri Shyam Sundar Nayak.

M.W. No 3. Shri Aswini Kumar Mohanty.

List of Documents exhibited on behalf of the 2nd Party-Workman.

Ext.1. Daily work register for the period from 02-04-91 to 31-10-92.

-do-1/A.	-do-	01-01-84 to 28-02-84.
-do-1/B.	-do-	01-03-84 to 17-07-84.
-do-1/C.	-do-	18-07-84 to 15-04-85.
-do-1/D.	-do-	16-04-85 to 30-09-85.
-do-1/E.	-do-	01-10-85 to 24-07-86.
-do-1/F.	-do-	26-07-86 to 30-06-87.
-do-1/G.	-do-	01-07-87 to 27-06-88.
-do-1/H.	-do-	28-06-88 to 31-05-89.
-do-1/I.	-do-	01-06-89 to 31-05-90.
-do-1/K.	-do-	01-06-90 to 30-03-91.
-do-1/L.	-do-	02-11-92 to 31-12-93.
-do-1/M.	-do-	01-01-94 to 29-06-95.
-do-1/N.	-do-	01-07-95 to 31-07-96.
-do-1/P.	-do-	01-08-96 to 22-04-97.
-do-1/Q.	-do-	24-11-97 to 30-09-98.
-do-1/R.	-do-	03-10-98 to 31-03-99.

Ext.2. Attendance register for the period from January 1991 to December 1992.

-do-2/A.	-do-	January 1984 to June 1986.
-do-2/B.	-do-	July 1986 to December 1990.

Ext. 2/C. Attendance register for the period from January 1993 to December 1993.

-do-2/D.	-do-	January 1994 to July 1996.
-do-2/E.	-do-	August 1996 to December 1998.

Ext.3. Minutes of meeting dated 25-02-2000.

-do-3/1. Synopsis relating to the work done in 1985.

-do-3/2. Synopsis relating to the work done in 1990.

-do-3/3. Synopsis relating to the work done in 1992.

-do-3/4. Synopsis relating to the work done in 1994.

-do-3/5. Synopsis relating to the work done in 1996.

Ext.4. Joint verification report, dated 11-4-2000.

Ext.5. Synopsis of the attendance for the year from 1983 to 1999 containing 17 sheets.

Ext.6. Series Xerox copy of the receipts under which the workman has received payments from the Central Store for the work done.

Ext.7. Series Copy of the pass issued daily basis.

Ext.8. Series Copy of the Annual gate pass issued by the Paradip Port Trust.

Ext.9. Copy of Award passed by the Hon'ble P.O., I.T., BBSR, dated 20-5-1988 in I.D. Case No. 5 of 1985 (Central).

Ext.10. Copy of Office Order bearing No. EN/FLD/P/Con/2/89, dated 4-4-1989 issued by Electrical and Mechanical Department of Paradip Port Trust.

Ext.11. Copy of Office Order bearing No. EN/FLD/P/Con/2/89, dated 1-6-1989 issued by Electrical and Mechanical Department of Paradip Port Trust.

Ext.12. Office Memorandum bearing No. AD/BR/45/15/91 dated 26th July, 1991 issued by Administrative Department of Paradip Port Trust.

Ext.13. Copy of letter No. EM/MM/OE-G-9/91 (Pt.)/4760, dated 16-08-1991 issued by the Materials Management, a Division of Paradip Port Trust.

Ext.14. File No. TD/TM/P&L/33/99-2000—Year 1994—As regards of issue of gate pass to the store workers of the contractor at the rate of Rs. 15/- per head per annum which has been approved by the Chairman.

Ext.15. File No. MM/OE-G-25/98—Year 1998—Strike/ Bandh/Correspondence regarding Trade Unions relating to Materials Management Department.

Ext.15/1. A note dated 30-11-1999 of Manager (Materials) regarding labourers are engaged by various contractors for drawal of steel, cement from Central Store.

Ext.16. Copy of the order to Shri Babaji Charan Behera for loading and unloading of cement and steel for construction of schools with reference to the quotation dated 18-4-2000.

Ext.17. Series Slips are issued to a person who works under the administrative control of the Central Store assigning duty or type of work.

List of the Documents exhibited on behalf of the 1st Party-Management.

Ext-A. Copy of the Purchase Order No. 315, dated 3-6-2002 issued to the suppliers.

Ext-B. Copy of the Purchase Order No. 77, dated 30-1-2001 issued to the suppliers.

नई दिल्ली, 28 मार्च, 2003

का. आ. 1260.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मूल्यांकन माईन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार श्रम न्यायालय कोल्लम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-03-2003 को प्राप्त हुआ था।

[सं. एल-29012/145/98-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 28th March, 2003

S.O. 1260.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Kollam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Moothala Stone Mine and their workman, which was received by the Central Government on 28-03-2003.

[No. L-29012/145/98-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

In the Court of the Industrial Tribunal, Kollam

(Dated, this the 3rd day of March, 2003)

PRESENT:

Shri C. N. SASIDHARAN
Industrial Tribunal

IN

INDUSTRIAL DISPUTE NO. 7/99

BETWEEN

Sri Manikanthan, Lease Holder,
Moothala-Stone Quar, P.M. House,
Pallickal,
Chirayinkil, Trivandrum Management
(By Sri. B. Vijaya Kumar, Advocate, Trivandrum)

And

Smt. G. Sarasamma,
Madhava Vilasam, Vattoorkavu,
Kumarapuram, Puliyoorkonam,
Trivandrum Workman
(By Sri. M. Rajagopalan Nair, Advocate, Kollam)

AWARD

The Government of India by Order No. L-29012/145/98/IR(M) dated 5-2-1999 have referred this Industrial Dispute to this Tribunal for adjudicating the following issue :

“Whether the action of the employer of Moothala Stone Mine, Chirayinkil Taluk, Trivandrum in terminating the service of Smt. Sarasamma, labour w.e.f. 26-2-1998 is justified? If not, to what relief she is entitled?”

2. In pursuance to notice issued from this Tribunal both sides entered appearance and filed statements advancing their respective contentions. Thereafter, while the case was pending for evidence, on 3-12-2002 a petition has been filed on behalf of the worker stating that the matter has been settled between her and the management and it is not necessary to proceed further in this matter. Since the worker was absent this court adjourned the case for appearance of the worker and after three postings the worker appeared before this Tribunal on 18-2-2003 and submitted that the dispute has been settled and she had filed earlier petition on 3-12-2002 through the management. In this state of affairs it is not necessary to proceed further in this matter.

3. In view of what is stated above, an award is passed holding that no industrial dispute subsists between the parties requiring adjudication.

C. N. SASIDHARAN, Industrial Tribunal

नई दिल्ली, 28 मार्च, 2003

का.आ. 1261.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कुद्रेमुख आयरन और क. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बैंगलोर के पंचाट (संदर्भ संख्या 50/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2003 को प्राप्त हुआ था।

[सं. एल-26012/40/97-आई. आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 28th March, 2003

S.O. 1261.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No. 50/1998) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Kudremukh Iron Ore Company Ltd. and their workman, which was received by the Central Government on 28-3-2003.

[No. L-26012/40/97-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—
CUM-LABOUR COURT
“SHRAM SADAN”,
III MAIN, III CROSS, II PHASE, TUMKUR ROAD,
YESHWANTHPUR, BANGALORE

Dated : 18th March 2003

PRESENT:

HON'BLE SHRI V. N. KULKARNI, B. COM. LL.B.
PRESIDING OFFICER
CGIT-CUM-LABOUR COURT,
BANGALORE.
C.R. No. 50/1998

I PARTY

The President,
Kudremukh Mazdoor Sangh ®, Kudremukh Iron Ore
Kudremukh,
Chikmagalur-577142

II PARTY

The Manager,
Kudremukh Iron Ore Co. Ltd.,
Company Ltd.,
II Block, Koramangala,
Bangalore-560034

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-26012/40/97/IR(M) dated 8th May, 1998 for adjudication on the following schedule :

SCHEDULE

“Whether the action of the management of Kudremukh Iron Ore Co. Ltd., Bangalore in imposing the punishment of reduction of pay on Shri S. Elangamony is justified? If not, to what relief Shri S. Elangamony is entitled to?”

2. The first party Union Workman is working with the Management. After holding enquiry management has imposed punishment of reduction of pay on the workman and therefore, Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the Union is as follows :—

5. The Management has issued chargesheet to the workman alleging that he has suppressed as to his Second Marriage with one Laxmi Bai, which he is alleged to have contracted on 26th May, 1976, while giving the details as to his family members.

6. According to the workman the said marriage is not contracted at all because it was brought about by undue influence and force and this contract with Laxmi Bai was to give some respectively to the said lady who was of immoral character and nothing else. Smt. Laxmi Bai is living with another person and she does not have any children.

7. The enquiry was conducted with the biased mind and the findings are perverse. Workman has not committed any misconduct. Domestic Enquiry is not fair and proper. Workman discharged his duties honestly and diligently. Union for these reasons and for some other reasons has prayed to pass award in its favour.

8. The case of the Management in brief is as follows :

9. The workman was appointed by the Management as Junior Operator Cum Mechanic Grade-1 and his appointment was subject to the condition that if married, he should not have more than one wife living and furnishes a declaration accordingly. The first party accepted the same and joined the services.

10. The main contention of the Management is that the workman contracted second marriage on 25-5-1976 and also executed Registered Marriage Agreement and this was in violation of the terms and conditions of the appointment and provisions in the certified Standing Orders. Enquiry was conducted by the Vigilance Department. While applying for issue of Medical Identity Card for obtaining medical assistance for treatment of his dependents, the first party had declared Smt. T. Suganthi as his wife. At no point of time he had declared only Smt. Laxmi Bai as his first wife and he had declared Smt. T. Suganthi as his wife and thus he suppressed the fact of his first marriage with Smt. Laxmi Bai. The workman committed misconduct as stated in Para 3 of the Counter.

11. Domestic enquiry was held and the same is held as fair and proper. The punishment imposed is correct. Management for these reasons and for some other reasons has prayed to reject the reference.

12. It is seen from the records that on 16th September, 1999 workman has given memo before my learned Predecessor stating that the fairness of the enquiry is admitted and in accordance with the memo my learned Predecessor has answered Preliminary Issue holding that the Domestic Enquiry is fair and proper. Thereafter the matter was posted for arguments.

13. I have heard both learned counsels for both sides. I have carefully perused the Enquiry Proceedings and the evidence before the Enquiry Officer.

14. At the very outset I am of the opinion that the findings of the Enquiry Officer is not correct. The material placed before him is not sufficient to hold that the charges are proved against the workman.

15. The main allegation against the workman is that at the time of joining services the workman has declared in the Declaration form Ex. M3 that he is married and having only one wife living and on investigation it was found that prior to joining the management, he has married to Smt. T. Suganthi in the year 1965. Again he married on 25-5-1976 with Laxmi Bai before the Sub Registrar, Thuchalai and he is having children.

16. The main contention of the workman is that by force that marriage with Laxmi Bai was performed. Laxmi Bai was living with someone else and deserted the workman. This aspect of the matter is not properly considered by the Enquiry Officer. According to the workman he has not claimed any benefit from the Company to Smt. Laxmi Bai. This factor is also not properly considered by the Enquiry Officer. According to the Enquiry Officer allegations of misuse of company funds for his mother is not proved. He has also further given findings holding that the charges made in the Charge Sheet regarding misuse of LTC benefits to the dependents of the workman are not proved. Charges in respect of dishonesty in connection with Company Business is also not proved.

17. According to the Enquiry Officer only giving false information regarding the particulars of the workman in respect of marriage is proved. For that I am of the opinion that the evidence placed before the Enquiry Officer is not clear and cogent. There is no evidence to the effect that when the first party workman joined the company he was living with two wives namely Smt. T. Suganthi and Smt. Laxmi Bai.

18. It is the case of the workman that Smt. Laxmi Bai was living with some one else and deserted him and this has taken place before joining the management. The fact that Smt. Laxmi Bai has deserted the workman as alleged by the workman is not properly considered by the Enquiry Officer. According to the workman Smt. Laxmi Bai has deserted him before joining the Company and therefore, he has not given this information when he joined the company.

19. It is a fact that he has not claimed any benefit from the Company to Smt. Laxmi Bai. All this would go to show that before joining the company itself Smt. Laxmi Bai has deserted the workman and therefore, the workman has furnished the information to the effect that he is having only one wife. The Enquiry Officer has said in his report, that on verification of Ex. 31 which has been produced by the workman would go to show that one person by name Shri C. Lekshmanan S/o. Shri Chinnanadar is living with Laxmi, D/o Pathrekalli residing at Mulagumoodu, Vijayakarai, Kuzhicode Post since 14th May, 1980 as his wife and nobody can claim her as his wife before or after till date. The Enquiry Officer has lightly said that this is only a statement and the validity of this statement is in question. Having said so the Enquiry Officer was expected to consider that matter and record evidence to find the truth but all that is not done.

20. There is again some confusion in respect of name of Smt. C. Laxmi and Smt. K. Laxmi. The workman has examined witnesses but the Enquiry Officer has not properly appreciated that evidence.

21. The main contention of the workman is that Smt. Laxmi has deserted him long back and he is having only one wife when he joined the Company but this is not considered by the Enquiry Officer.

22. Considering all this, I am of the opinion that the finding given by the Enquiry Officer is perverse and the same is not in accordance with the material before him. The Enquiry Officer has not considered the evidence of defence witnesses and the stand taken by the workman. I have read the decision reported in Kerala Solvent Ex. Ltd. Vs. A. Unnikrishnan & Anr. The facts of the above decision are quite different from the facts of the case on hand.

23. In the result I proceed to pass the following order :

ORDER

Punishment imposed by the Management is set aside. Accordingly reference is allowed and the management is directed to give all benefits to the workman.

(Dictated to PA transcribed by her corrected and signed by me on 18th March, 2003)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 28 मार्च, 2003

का.आ. 1262.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भान्जा मिनरल्स प्रा. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, भुवनेश्वर के पंचाट (संदर्भ संख्या 392/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2003 को प्राप्त हुआ था।

[सं. एल-29011/25/2001-आई.आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 28th March, 2003

S.O. 1262.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 392/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Bhanja Minerals Pvt. Ltd. and their workman, which was received by the Central Government on 28-3-2003.

[No. L-29011/25/2001-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT:

Shri S.K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C. G. I. T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 392/2001

Date of conclusion of hearing—7th March, 2003

Date of Passing Award—17th March, 2003

Between :

The Management of the Managing Director, Bhanja Minerals Pvt. Ltd., At. Park Street, Keonjhar (Orissa), Keonjhar ...1st Party-Management.

(And)

Their Workmen represented through The General Secretary, North Orissa Workers Union, At/Po. Barbil, Dist. Keonjhar, (Orissa). ...2nd Party-Union.

APPEARANCES :

None	...For the 1st Party Management
Shri B.S. Pati, General Secretary	...For the 2nd Party-Workmen.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29011/25/2001/IR(M), dated 11-05-2001 :

“Whether the demand of North Orissa Workers Union, Barbil to pay 20% bonus for the financial year ending 1998-99 to all categories of employees working in the Ingajijharan Iron and Mn. Mines of M/s. Bhanja Minerals (P) Ltd., At/Po. Keonjhar, is justified? If yes, what relief the workmen are entitled to?

2. The case of the 2nd Party as per his Claim Statement is that, during the financial year of 1998-99 the 1st Party-Management earned more profit. So, there was demand for payment of 20% bonus for the said financial year to all categories of the workmen. But the 1st Party-Management did not take any step. Dispute was raised and after failure of conciliation the present reference has been made. The 2nd Party who has been represented through his General Secretary in their Claim Statement has prayed for 20% of bonus to the financial year 1998-99.

2. The 1st Party-Management has filed their Written Statement. According to their pleadings they have paid 13% bonus to their workers for the year 1998-99 which is more than the statutory limit of 8.33% as per Section 10 of the Payment of Bonus Act 1965. It has been further pleaded that the 1st Party-Management has also paid *ex-gratia* to their workers ranging from 3% to 7% as per their sincerity and efficiency. The allegation made by the 2nd Party is that the 1st Party-Management made more profit for the year 1998-1999 has been denied. The first Party-Management made a profit of Rs. 61,624.85 during the financial year 1998-99 after meeting all expenses and liabilities and so the 2nd Party-Workmen are not entitled to bonus at the rate of 20%.

4. On the above pleading of the parties, the following Issues have been settled.

ISSUES

1. Whether the demand of North Orissa Workers Union, Barbil, to pay 20% bonus for the financial year ending 1998-99 to all categories of employees working in the Ingajijharan Iron and Mn. Mines of M/s. Bhanja Minerals (P) Ltd., At/Po. Keonjhar, is justified?
2. If yes, what relief of the workmen are entitled to?
3. Whether the reference is maintainable?

5. When the case was posted for hearing the 1st Party-Management remained absent and has not adduced any oral or documentary evidence in support of his case. On the other hand, the 2nd Party has filed affidavit of one Shri B.S. Pati, General Secretary of the Union in support of their case.

FINDINGS

ISSUE NO. III

6. For the convenient sake, I have taken this Issue first. The 2nd Party-Workmen are entitled to get more bonus than the statutory limit when the 1st Party-Management makes more profits. In this case, the 1st Party-Management had admitted to have made some profits but not to the limit that has been alleged by the 2nd Party. In that case, a dispute exists and rightly there was a failure of conciliation and the present reference has been made. In other words the reference is maintainable.

ISSUE NO. I

7. The witness of the 2nd Party in his affidavit has stated that, there was more profit in the year 1998-99 for which the 2nd Party-Workmen are entitled to get the bonus at the rate of 20%. On the other hand, the 1st Party-Management in their Written Statement has averred that, they had made profit to the tune of Rs. 61,624.85. During course of hearing, no original documents have been filed on behalf of the 1st Party-Management. No witness has come to the witness 'box on behalf of the 1st Party-Management to support their stand. They have remained absent, so in that case, it can not be said that, the 1st Party-Management has made a profit annually to the tune of Rs. 61,624.85. The 2nd Party has submitted that, they could not file any documents because those documents are in possession of the 1st Party-Management. So, they have filed a petition calling for those documents. As the 1st Party-Management remained *ex-parte* those documents could not be bought from the custody of the 1st Party-Management for which the Tribunal is not in a position to peruse the same and to find out whether the 1st Party-Management has made a profit to the tune of Rs. 61,624.85 or more than that. When the 2nd Party has made allegation that the 1st Party-Management has made profit for which

they are entitled to get the bonus at the rate of 20%, the entire burden lies on the 1st Party-Management to prove that no profit was made to the extent for which the 2nd Party-Workmen are entitled to get bonus at the rate of 20%. So, in absence of any materials there is no alternative to this Tribunal but to accept the case of the 2nd Party-Workman that they are entitled to get the bonus at the rate of 20% for the year 1998-99. Hence, this Issue is answered in favour of the 2nd Party.

ISSUE NO. II

8. In view of my findings given in respect of Issue No. III and I the members of the 2nd Party are entitled to get the bonus at the rate of 20% for the financial year 1998-99.

9. Reference is answered accordingly.

Dictated & Corrected by me.

S. K. DHAL, Presiding Officer

नई दिल्ली, 28 मार्च, 2003

का.आ. 1263.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भान्जा मिनरल्स प्रा. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, भुवनेश्वर के पंचाट (संदर्भ संख्या 390/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2003 को प्राप्त हुआ था।

[सं० एल-29011/6/2001—आई.आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 28th March, 2003

S.O. 1263.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No. 390/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Bhanja Minerals Pvt. Ltd. and their workman, which was received by the Central Government on 28-3-2003

[No. L-29011/6/2001-IR (M)]

B. M. DAVID, Under Secy

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

PRESENT:

Shri S.K. Dhal, OSJS, (Sr. Branch), Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 390/2001

Date of conclusion of hearing—7th March, 2003

Date of Passing Award—11th March, 2003

Between :

The Management of the Managing Director, Bhanja Minerals Pvt. Ltd., At. Park Street, Keonjhar (Orissa), Keonjhar. ... 1st Party-Management

AND

Their Workmen represented through The General Secretary, North Orissa Workers Union, At/Po. Barbil, Dist. Keonjhar, (Orissa). ... 2nd Party-Union

Appearances :

None	...For the 1st Party Management.
Shri B.S. Pati, General Secretary	...For the 2nd Party-Workman.

AWARD

The Government of India in the Ministry of Labour in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29011/6/2001/IR (M), dated 4-5-2001:

“Whether the demand of the North Orissa Workers Union, Barbil, for payment of wages to the workers as per list enclosed from 23rd Dec. 1998 to till date of opening of the mines by the Management of Deojar Iron Mines of M/s. Bhanja Minerals (P) Ltd., Deojar for not observing the provisions of the Industrial Disputes Act, 1947 before closure of the mines and also not acting as per the modified order passed in the O.J.C. No. 17610 of 1998 dated 18-3-1999 of Hon’ble High Court of Orissa is justified? If not, what relief the workmen are entitled to?”

2. The case of the 2nd Party as per his Claim Statement may be stated in brief.

In the year 1998 there was boundary dispute of the Mines and for that the 1st Party-Management filed Writ Petition before the Hon’ble High Court of Orissa and the Hon’ble High Court restrained the parties to operate mining work. On receipt of the intimation from the Hon’ble High Court the 2nd Party filed petition before the Hon’ble High Court for impleading them as parties in the Writ Application and prayed for vacation of the interim stay. After hearing both the parties, the Hon’ble High Court modified the order of restraining the work. After vacation of the stay order, the 1st Party-Management was directed to operate all the mining activities of the total mining area except to the disputed area. Although the 1st Party-Management was free to restart the mining activities by engaging all the workmen previously on the roll of the 1st Party-Management did not start the mining activities thereby violated the direction of the Hon’ble High Court. After the vacation of the stay order the 2nd Party requested the 1st Party-Management to restart the work but no work was started. So, the 2nd Party raised a dispute before the Labour Commissioner (Central), Rourkela. Conciliation failed and the present reference has been made in the Claim

Statement prayer has been made to pass award for reinstatement of the workers in service with full back wages along with all other consequential benefits till the restart of the mining work.

3. The 1st Party-Management has filed their Written Statement. It has been pleaded that in the year 1998 there was a boundary dispute of the Deojhar Iron Mines and for which they approached the Hon'ble High Court by filing O.J.C. 17610/1998 and the Hon'ble High Court restrained all the parties from operating mining work. That, M/s. Saradas, with whom the 1st Party-Management has boundary dispute, obstructed the workers and staff of the 1st Party-Management from entering into the mines. Knowing the order of the Hon'ble High Court the workers stopped coming to the mines from 23-12-1998. It has been further alleged that, the petition filed by the 2 Party to be impleaded as party was rejected and the order was modified with regards to the disputed area. The 1st Party-Management has further taken the stand that the entire mining activity was being done on the so called disputed area. The 2nd Party-Workers knew it and so they did not turn up for the duty and abandoned from their duty. The 1st Party-Management did not terminate their service. It is further stated that the mine was closed for no fault of the 1st Party-Management. So, when the workers did not turn for the work they are not entitled for any wages or any other remunerations under the Industrial Disputes Act. So, the 1st Party-Management has prayed for passing no relief in favour of the 2nd Party.

4. On the above pleading of the parties, the following Issues have been settled.

ISSUES

1. Whether the reference is maintainable ?
2. Whether the demand of the North Orissa Workers Union, Barbil for payment of wages to the workers as per list enclosed from 23rd Dec. 1998 to till date of opening of the mines by the Management is justified ?
3. Whether the Deojhar Iron Mines of M/s. Bhanja Minerals (P) Ltd., Deojhar for not observing the provisions of the Industrial Disputes Act, 1947 before closure of the Mines is justified ?
4. Whether the 1st Party-Management is not acted as per the modified order passed in O.J.C. No. 17610 of 1998 passed on 18.3.1999 of the Hon'ble High Court of Orissa is justified ?
5. If not, what relief the workmen are entitled to?
5. It may be stated here that, when the case was posted for hearing, the 1st Party-Management has remained absent and he has been set ex parte. On behalf of the 2nd Party one witness has filed his affidavit after obtaining leave of the Tribunal.

FINDINGS

ISSUE NO. I

6. As alleged by the 2nd Party inspite of modification of the order passed by the Hon'ble High Court, the 1st Party-Management stopped the work in the mines for which the 2nd Party brought to the notice of the 1st Party-Management claiming their wages. This fact has been supported by Ext.-2. This fact has not been challenged by

the 1st Party-Management. In my opinion, there was a dispute between the parties and rightly the reference has been made. In other words the reference is maintainable.

ISSUE NO. II, III & IV

7. As these three issues are inter-related to each other, I have taken all these issues together for convenient sake. The grievance of the 2nd Party is that after modification of injunction order passed by the Hon'ble High Court, the 1st Party-Management did not take any step to operate the mines for which the members of the 2nd Party could not attend the work. On the other hand, the 1st Party-Management has taken the stand that the person with whom they have boundary dispute threatened the workers and staff for which they did not come to the work. As I have stated earlier, the 1st Party-Management has remained absent during hearing of the case and has not adduced either any oral or documentary evidence. So, their pleadings made in the Written Statement that M/s. Saradas, with whom they had boundary dispute obstructed the workmen with the help of police from entering into the mines by virtue of the order of the Hon'ble High Court can not be accepted in absence of any materials. Admittedly, no notice has been issued to the workmen for stopping the work of mines. So, the workmen can not be penalized when they had no fault. One Shri B.S. Pati has filed affidavit supporting the case of the 2nd Party. The submissions made in the affidavit has not been shaken as the 1st Party-Management has not cross examined the witness and remained absent during course of hearing of the reference. In Ext.-2 it appears that, the 2nd Party had claimed wages from 23rd Dec. 1998 to 31st March 1999. The amount comes to Rs. 21,80,673/- Ext.-3 reveals that the 1st Party-Management was asked to restart the work in view of the order passed by the Hon'ble High Court. But the 1st Party-Management did not take any step for operation of the mining work on the ground that the mining Department has not identified the area. So, this would reveals that due to negligence of the 1st Party-Management the 2nd Party workers were not allowed to work in the mines. There was no stay for entering into the mines area. Rather the Hon'ble High Court vacated the order of stay passed earlier with observation that, the work may start except the disputed area. In the circumstances above, I am of the opinion that the 2nd Party has made out a case for payment of their Wages for the period for which they were not allowed to work. Hence, these three Issues are answered accordingly.

ISSUE NO. V

8. As per my above findings, in respect of Issue No. I, II, III and IV, the members of the 2nd Party are entitled to get their wages amounting to Rs. 21,80,673/- for the period for which the 1st Party-Management did not allow them to work from 23rd Dec. 1998 to 31st March 1999. The amount be paid to the members of the 2nd Party within three months from the date of publication of award in the gazette notification of the Government of India failing which the 2nd Party will be entitled for interest at the rate of 12% per annum.

9. Reference is answered accordingly.

Dictated & Corrected by me.

S. K.DHAL, Presiding Officer

नई दिल्ली, 31 मार्च, 2003

का. आ. 1264.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी. जी. क्वेनिम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुंबई नं. 2 के पंचाट (संदर्भ संख्या 220/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-3-2003 को प्राप्त हुआ था।

[सं. एल-29011/38/99-आई. आर. (विविध)]

बी. एम. डेविड, अबर सचिव

New Delhi, the 31st March, 2003

S.O. 1264.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 220/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. V. G. Quenim and their workmen, which was received by the Central Government on 31-3-2003.

[No. L-29011/38/99-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. II, MUMBAI

PRESENT

S. N. SAUNDANKAR
PRESIDING OFFICER

Reference No. CGIT-2/220 of 1999

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

Mr. V. G. Quenim, Proprietor,
M/s. V. G. Quenim,

Mine Owner, Keni Building,
Dr. Dada Vaidya Road, Panjim,
Goa 403001.

AND

THEIR WORKMEN

The Secretary,
Goa Mining Labour Welfare Union,
Velhos Building, 2nd Floor,
Opp. Municipal Garden, Panji,
Goa.

APPEARANCES:

For The Employer : Mr. P. J. Kamat
Advocate.

For The Workmen : Mr. Suhaas Naik
Advocate.

Mumbai, dated 15th January, 2003

AWARD

The Government of India Ministry of Labour by its Order No. L-29011/38/99/IR(M) dtd. 26-11-99 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

Whether the action of the management of M/s V.G. Quenim, Goa, in retrenching the services of 20 workmen (as per list enclosed) working at their Sonshi Mines and workshop w.e.f. 16-6-99 is legal and justified? If not, to what relief the workmen are entitled for?"

LIST OF THE WORKERS:

1. Kashinath V. Pilgaonkar
2. Yeshwant M. Khandekar
3. Shriram S. Parab
4. Namdeo V. Pednekar
5. Narsinha R. Pednekar
6. Jose John Paul D'Souza
7. Shyamkant Sawant
8. Gurudas S. Gunaji
9. Raghunath S. Kawalekar
10. Ulhas Falkar
11. Kishor M. Devidas
12. Santosh V. Pednekar
13. Shrikant Y. Gawade
14. Ramakant P. Virdekar
15. Rohidas J. Sawant
16. Venkatesh K. Kamat
17. Joao M. L. Dias
18. Nagesh B. Gawade
19. Madhukar Naik
20. Anant N. Gawthankar

2. Workers under reference named in Annexure 1 to 20 were working in the company M/s. V.G. Quenim Goa as welder supervisor, helper, mechanic, watchman, operator, driver, mines mate. Vide Statement of Claim (Exhibit-13) Goa Mines Labour Welfare Association pleaded that the employer being engaged in the business of extracting iron ore deposit from the mines and exporting the said iron ore to various clients in foreign countries as well as the domestic iron ore exports had taken mining lease known as 'SEM DENOMINACAO ESPECIAL QUTROS TERRENOS ADJACENTES' situated at Sonshi (Sonus Vonvoliem) in Sattari Taluka Goa. Employer had hired various self-excavating iron ore machinery and for operating the same had engaged the workers under reference before about 20 years. It is pleaded the workers under reference were continuously working at the mining workshop and that union had signed the settlement with the employer as regards wage packet. It is averred though workers under

reference continuously worked more than 20 years having clean and unblemished past service record instrumental in making the company successful and though the company was carrying out its business profitably and viably for many years and had earned huge profits out of selling and exporting Iron ore deposits without any justifiable reasons refused employment to the workers since 16-6-99. It is pleaded that employer company recruited new contract workers and trainees in order to carry out its mining operations through the contract system, denying the employment to the permanent unionised workers with *mala fide* intention therefore their retrenchment is illegal. It is contended company shifted its machinery to M/s. Sonshi Engineering Works, M/s. Prasad Trust, and M/s. Kudnem Minerals Ore which were sister concerns managed and governed by the family of the employer. Consequently the workers can be transferred to those companies however instead of that the employers retrenched them and getting the work done through the contract workers. Since employer illegally retrenched the workers under reference union had raised dispute before the ALC(C) Wasco-da-Gama, Goa who in turn tried conciliation but failed. For all these reasons union contended retrenchment being illegal employer be directed to reinstate the workers under reference with full back wages.

3. Employer resisted the claim of union by filing written Statement (Exhibit-15) contending that workers under reference viz. Ramakant Virdikar, Rohidas Sawant, and Venkatesh Kamat were in the supervisory category drawing wages more than Rs. 1600/- per month therefore they are not workmen under section 2(s) of the Industrial Disputes Act. Consequently their claim is not maintainable. It is pleaded that the ore deposits in the mines were exhausted and whatever remained were found to be deep seated and unsaleable poor quality and that being not economical employer decided to suspend the activities of mining and other connected operations of workshop w.e.f. 16-6-99 and consequently retrenched the workers. It is averred workers were offered one month wages in lieu of notice and retrenchment compensation as per law. However excepting two are all other workers refused to accept notice and same were returned back to the employer. It is contended along with the notices the employer had send the demand drafts drawn on the United Western Bank Ltd., Panaji Branch towards one months notice pay, retrenchment compensation as required under section 25 F of the Act and the employer had also sent notices to the appropriate government as required under section 25FFA of the said Act. It is pleaded the financial position of the employer was very bad and he had to pay huge amounts to the banks from whom loans were raised for running the mines. He further contended that the machinery laid at the mines workshop is very costly machines, requires regular maintenance, i.e. oiling, starting of engines etc. were damaged and thereby employer was put to loss. It is pleaded while the matters were in conciliation the employer desired to operate one or two machines for loading the saleable ore from the mining are for which notices were given to required number of workmen retrenched, to report for work to operate the machines however they refused. Employer denied that for *mala fide* intention workers were retrenched

and the work is being done through the contract workers. He pleaded since the company suffered losses they have retrenched the workers under reference offering retrenchment compensation under the provisions of the Industrial Disputes Act, and in that context, union claim being devoid of substance, be dismissed with costs in limine.

4. By Rejoinder (Exhibit-16) union reiterated the recitals in the Statement of Claim denying the averments in the written Statement. It is pleaded that the company is getting work done through the contract labourers, illegally retrenching the permanent workers.

5. On the basis of the pleadings issues were settled at Exhibit-19 and in that context union filed affidavits in lieu of Examination in Chief of General Secretary Mr. Fonseca, Secretary Mr. R.D. Mangueskar vide (Exhibit-26/29) and the workers under reference Ramakant Virdikar (Exhibit-33) and union closed oral evidence vide purshis (Exhibit-34). In rebuttal, Power of Attorney holder of the company's proprietor, Mr. Prasad V. Quenim and the Accountant Mr. Vikas Naik, Foreman Shri Vinayak Shetye filed affidavits on behalf of the company by way of Examination in Chief (Exhibit-38-40-41) and closed oral evidence vide purshis (Exhibit-42).

6. Union filed written submissions (Exhibit-43) along with the copies of rulings and the management company (Exhibit-45). On perusing the record as a whole, written submissions and hearing the counsels of both the parties I record my findings on the following issues for the reasons stated below :

Issues	Findings
1. Whether it is proved that Mr. Ramakant P. Virdikar; Rohidas J. Sawant and Venkatesh K. Kamat named in the list are workmen under section 2(s) of the Industrial Disputes Act?	Yes
2. Whether it is proved that workers were offered one month wages in lieu of notice and retrenchment compensation under section 25 F of the Industrial Disputes Act?	Yes
3. Whether the action of the management of M/s. V.G. Quenim, Goa, in retrenching the services of 20 workmen (as per list enclosed) working at their Sonshi Minds and workshop w.e.f. 16-6-99 is legal and proper?	No
4. What relief concerned workers are entitled to?	As per order below.

REASONS

7. At the threshold the Learned Counsel Shri Kamat for the employer inviting attention to the detailed written submissions (Exhibit-45) and the rulings enclosed therewith submitted that the workers viz. Ramakant Virdikar, Rohidas Sawant and Venkatesh Kamat were in the category of supervisor and therefore they do not fall within the

definition of workman under section 2(s) of the Industrial Disputes Act. Consequently this Tribunal has no jurisdiction to entertain and decide and therefore reference as a whole is not maintainable. Unions case is that all the retrenched employees including the workers referred to above are workman. Secretary of the Union Mr. Mangueshkar in his affidavit para 4 stated that Virdikar was issuing diesel to the various hired truck plying at the mentioned was maintaining record of the diesel consumed by every truck and machine. Rohidas Sawant was working as mines mate and was required to issue slips of loading of the iron ore to the respective trucks at mining loading point and that he was actually required to stand at the loading point and that Virdikar himself in his evidence disclosed that he was alongwith Sawant and Kamat working at the mines as mine mate. He clearly deposed that Venkatesh Kamat was issuing slips and supplies diesel alongwith Rohidas Sawant and that none of them were discharging supervisory duties. Worker Virdikar in no doubt admitted in his cross-examination para 13 that he was appointed as Senior Supervisor by the company vide letter dated, 17-4-91 (pg. 23/Exhibit-27) and that Rohidas Sawant and Venkatesh Kamat were also then supervisors however denied that they all were supervising the work. Secretary of the Union Mr. Mangueshkar also in his cross-examination para 21 pointed out that all the three workers were supervisors. However, he further clarified that they were designated supervisors. Mr. Quenim Power of Attorney holder of the proprietor of the company in his evidence para 12 disclosed that workers referred to above were supervising the work of operators and helpers at the mines. However he admits in his cross-examination para 58 that the above employees find place in the list of the workers who were given benefit of settlement bide pg. 16/Exhibit-21. This shows company treated the above said workers as 'workmen' therefore hardly lie in the mouth of company that they are not workmen. According to the management witnesses Mr. Shetye Foreman, Mr. Nailik—Accountant above employees were workmen. However assuming they were supervisors as admitted by them point arises, whether simply designating as supervisors fall within the definition of workman. Their Lordships of Bombay High Court in Union Carbide (India) Ltd. V/s. D. Samuel and Ors. 1999 LLR 21 while discussing supervisor and workman laid down some tests:

1. Designation is not material but what is important is the nature of work.
2. Find out the dominant purpose of employment and not any additional duties, the employee may be performing.
3. Can he bind the company/employer to some kind of decisions on behalf of the company/employer.
4. Has the employee power to direct or oversee the work of his subordinates.
5. Has he power to sanction leave or recommend it; and
6. Has he the power to appoint, terminate or take disciplinary action against workman.

In S.K. Maini Vs. M/s. Carona Sahu Co. Ltd. & Ors.—1994 II LLJ. p. s. 1153. Their Lordships of Apex Court pointed out that designation of the employee is not of much importance. What is important is the nature of duties, the determinative factor is the predominant duties/main duties and not some work as incidentally done, and in that light, question is required to be determined with reference to the facts and circumstances of the case material on record. In S.K. Verma Vs. Mahesh Chandra and Anr. 1983 LAB 1C 1483 it is observed:

"While interpreting the provisions under the Industrial Disputes Act the legislation intended to bring about peace and harmony between labour and management in an industry where a pragmatic approach is necessary to be adopted and considering the duties observed that "the Development Officer in the Life Insurance Corporation even is a workman".

In para 6 Their Lordships pointed out that:

"One does not have to be carried away by the appellation development officer' as the Industrial Tribunal appear to have been. After all, what is in a name? Notwithstanding the glorified designation, we must look to the nature of his duties to discover what precisely a development officer is?"

In Lloyds Bank Ltd. Vs. Panna Lal Gupta & Ors. 1961 ILLJ pg. 18. (SC) Their Lordships observed:

"name or designation of the employee is not a determining test"

At this juncture the Learned Counsel Mr. Kamat for the management submits that since the employees named above admits that they were supervisors they can safely be treated as supervisors relying on the decision in Radio Television, Delhi Vs. Sharma (K.K) & Ors. 1962 II LLJ pg. 722 and May and Baker (India) Ltd. Vs. Their workman wherein Their Lordships pointed out :

"the fact that employee had no supervisory duties or that he had to work under the directions of his superior officers could not make his duties mainly clerical or manual."

8. At the same time the Learned Counsel for the union Mr. Suhaas Naik referring the tests in the Union Carbide's case submitted that determinative factors that authority to recruit, power to recommend or sanction leave, power to take disciplinary action are wanting with the employees. He has relied on the observations in para 36 of His Lordships of Calcutta High Court in Mcleod & Co. Vs. Sixth Industrial Tribunal West Bengal & Ors. AIR 1958 Cal. 273 which reads as under:

"Having regard to the categories of service indicated by the use of different words like "supervisory", "managerial", "administrative" it is I think necessary not to import the notions of one into the interpretation of the other. The words such as supervisory, managerial and administrative are advisedly loose expressions with no rigid frontiers and I would discourage too much subtlety in trying to precisely

define where supervision ends, management begins or administration start. For that would be theoretical and not practical. It has to be in my opinion broadly interpreted from a common sense point of view where tests will be simple both in theory and in their application, I should say interpreting this section on this point that (1) a supervisor needs not be a manager or an administrator (2) that a supervisor can be a workman so long as he does not exceed the wage limit of Rs. 500 per month and (3) that a supervisor, irrespective of his salary, is not a workman who has to discharge functions mainly of managerial nature by reason of his duties attached to his office or of the powers vested in him. I consider the industrial Tribunal in this case has made the error in confusing a person who is an employee in a supervisory capacity drawing wages exceeding Rs. 500 per month with the other class of a person who being employed in a supervisory capacity exercises functions mainly of a managerial nature. That is why he had been at pains to show that Sanyal had no superior authority for assigning business or that he had no initiative or that he could not dismiss, discharge or take disciplinary action against any subordinates. I am afraid these are the tests of managerial work or administrative work within the meaning of such words as used in Section 2(s) of the Industrial Disputes Act. In the case of Sanyal the only question after the financial test of wage limit was satisfied was to see whether he was employed in a supervisory capacity. In fact, the Tribunal has found that it was supervisory, I shall quote the language of the Tribunal's decision. In one place the Tribunal says that "Sj. Sanyal as the Assistant incharge of the jute department has to keep an eye upon the work of clerks." Now "keeping an eye upon the work of other clerks" is supervision and that is supervisory work. In another place the Tribunal says "though he had to check up the work of the clerks yet his work was mainly clerical and not supervisory I should have thought that checking the work of the clerks, keeping an eye upon the work of the clerks" would be obvious works of supervision. No other conclusion is possible from those findings of fact. Sanyal has said that he did not distribute work. Distribution of work may easily be the work of manager or an administrator but 'checking' the work so distributed or "keeping an eye" over it is certainly supervision. A manager or administrator's work may easily include supervision but that does not mean that supervision is the only the function of manager or administrator." In the case in hand workman said to have been supervising the work. Nothing in the nomenclature. The definition of the term 'workman' under section 2(s) of the Industrial Disputes Act reads as follows :

"Workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be expressed or implied, and for the purposes of any proceedings

under this Act in relation to an industrial dispute; includes any such persons who has been dismissed, discharged or retrenched in connection with, or as a consequence of that dispute or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i)
- (ii)
- (iii)
- (iv)

On going through the record as a whole in the light of the definition of workman and the decisions referred to above the pivotal point is the nature of the duties actually performed by the employees to my view fall within the definition of workman under section 2(s) of the Industrial Disputes Act. Consequently this Tribunal has jurisdiction in which to decide the references as a whole. Issue No. 1 is therefore answered accordingly.

8. Once it is clear that the reference is maintainable point crops on the retrenchment. It is the admitted position that by the notice dtd. 15-6-99 company had retrenched the workman under reference w.e.f. 16-6-99. According to union though work exists with malafide intention unionised workmen have been retrenched. According to the union, reasons for retrenchment given in the notice are not justified and that the retrenchment is capricious and in colourable exercise of power by way of victimisation and hence illegal. Company denied the same contending, due to bad financial position they have discontinued the activities and therefore the retrenchment is legal and justified. It is well established that it is within the managerial discretion of employer to organise and arrange its business in the manner he considers best so long as that is done bona fide and it is not competent of a Tribunal to question its propriety for which reliance can be placed on M/s. Parry & Co. Ltd. V/s. P.C. Pal, Judge of the Second Industrial Tribunal Calcutta & Ors. 1970 AIR 1334 wherein.

Their Lordships in para 14 observed :

"If a scheme for such reorganisation results in surplusage of employee no employer is expected to carry the burden of such economic dead-weight and retrenchment has to be accepted as inevitable however unfortunate it is."

Their Lordships in para 15 pointed out further :

"So long as retrenchment carried out is bona fide and not vitiated by any consideration for victimisation or unfair labour practice and the employer comes to the conclusion that he can carry on his undertaking with reasonable efficiency with the number of employees retained by him after retrenchment, the Tribunal ought not ordinarily to interfere with such decision."

Their Lordships of Apex Court in M/s. Parry & Co. Ltd. V/s. P.C. Pal & Ors 1970 II LLJ 429 observed :

"It was for the employer to decide whether a particular policy in running his business would be profitable, economic or convenient and there is no provision in

industrial law which confers any power on the Tribunal to inquire into such decision so long such decision was not actuated by victimisation or unfair labour practice."

From the decisions referred to above it is apparent that so long the retrenchment carried out is bonafide and not vitiated by any consideration for victimisation or unfair labour practice, the tribunal does not come in the picture. Now let us scrutinise the evidence as to whether the reasons given for retrenchment are genuine. Before switch on the evidence to that effect it is relevant to note that according to union the workmen under reference were in the employment for more than 5—20 years which has been denied by the company in a cryptic manner. The constituted Attorney of the proprietor of the company Mr. Prasad V. Quenim in his cross-examination para 58 admitted that the benefit of the settlement dtd. 17-5-97 were given to the workers in the list pg. 16/Ex-21. On perusing the documents filed with list (Exhibit-14) clearly show that the workers under reference were in the service as mentioned in Annexure filed with list (Exhibit-21), and that they were in the employment for 5—20 years. According to company they were given notice pay and retrenchment compensation itself indicative to show that the workmen under reference were continuous employees entitling the compensation therefore, hardly lie in the mouth of company that the workers were not in continuous service.

9. According to Mr. V.G. Quenim, in the year 1998-99 ore deposits in the mines were exhausted and whatever remained were found to be deep seated and more of unsaleable poor quality, rendering mining excavation uneconomical. Therefore the company decided to suspend/discontinue the activities of mining excavation and other connected operations and therefore retrenched the workmen. It is in the evidence of General Secretary of the union Mr. Fonseca and the Secretary of the union Mr. Mangeshkar since last many years company is earning huge profits by selling and exporting iron ore deposits to various domestic as well as foreign clients and thereby the business is profitable and viable and added that company has diverted its profits to its other sister concerns which are run and managed by M/s. V.G. Quenim and family viz Cudnem Mineral Processing Ltd., M/s. Prasad Trust, M/s. Sonshi Engineering Works, M/s. Vilman Packagings Pvt. Ltd. and added that retrenching the workers the operations are being done with newly recruited contract workers and that the business is being carried out in full swing. Mr. Prasad V. Quenim who looks after the business of the company in cross-examination para 58 clearly admitted that prior to starting the work of excavation of iron ore the employer was in the business of hiring heavy machineries to other mine owners and that some of the workers under reference were operating heavy machines of the company and that some of the machineries are presently given on hire and further admitted that company has recruited workers to operate those hired machines. It is relevant to note that the Assistant Labour Commissioner, Vasco vide his report dtd. 7-12-2000 pg. 106/Exhibit-27 which was admittedly received by the company, on inspection, found the activity in Sonshi Iron Ore Mine, Tal-Satlam Goa in

existence and that he noticed some irregularities in the establishment, some of the retrenched workers were asked report in the Sonshi Mines, which the A.L.C(C) had inspected. Had the activities discontinued/suspended report would have depicted the same. In view of the admission of Mr. Prasad V. Quenim referred to above that they have recruited workers to operate hired machinery and that ALC(C) did not find the establishment closed, contention of the workers under reference that they were terminated for no reasons and in their place contract workers were engaged, finds force.

10. So far economic/financial position is concerned, General Secretary Mr. Fonseca admittedly did not read the Profit and Loss Account and Balance Sheet of the company and that he is unaware how the profits of the company are appropriated however the fact that, company recruited workers to operate the machinery and that report dtd. 7-12-2000 referred to above speaks on the establishment hardly can be said that the company was in loss and therefore activity was discontinued. From the evidence on record it is thus apparent that though the activity is in existence and that though company is not in loss, workmen were retrenched and in their place contract labourers were recruited which leads to the conclusion that the retrenchment was not bonafide.

11. So far the conditions precedent to retrenchment of workman under the provisions of the I.D. Act is concerned, no workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by the employer until—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) the workman has been paid, at the time of retrenchment compensation which shall be equivalent to fifteen days average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in Official Gazette.

According to the union the employer failed to give notice of pay and retrenchment compensation and therefore the retrenchment is illegal.

12. Company has filed voluminous documents to show that alongwith the retrenchment notice dtd. 15-6-99, notice pay and retrenchment compensation of the employees concerned was offered but they refused to accept. At this juncture the Learned Counsel Shri Suhas Naik for the union urged with force that acknowledgements filed on record with list (Exhibit-20) are fabricated. On minute perusal it is seen the dues were sent by Demand Draft drawn on the United Western Bank Limited, Panji and that

those envelopes were unclaimed/refused. It is to be noted that the General Secretary Mr. Fonseca admitted in his cross-examination that union received the letter dtd. 29-6-99 (Exhibit-25/7) which clearly mentions on the compliance of relevant provisions of the Industrial Disputes Act, in connection with retrenchment. General Secretary and the Secretary of the Union showed ignorance on the notice pay and retrenchment compensation offered by the company vide letter dtd. 15-6-99, and that they both at some places denied on the offer of the same. However man may speak lie but not the record. As stated above, voluminous documents clearly show the compliance of the provisions. It is seen not only the company sent retrenchment notices, notice pay and compensation but it is seen the general notice dtd. 15-6-99 issued to all workmen informing them that they were retrenched from 16-6-99, was displayed and that seniority list is required under Rule-77 of the Industrial Disputes Act Rules, 1957, was displayed at the mines office and workshop and the notices under Section 25F(C) were sent to the respective authorities by post which is clear-cut compliance of the provisions of the Industrial Disputes Act.

13. From the evidence on record it is clear that the company had complied with the provisions of the Industrial Disputes Act however, the fact that the reasons given for the retrenchment are not genuine the retrenchment is not legal and proper.

14. Once it is clear that the retrenchment was not legal and justified point arises whether the workmen under reference deserve to be reinstated with full back wages. The Learned Counsel for the company Mr. Kamat submitted that the workers have nowhere stated that they are not gainfully employed and that therefore it is wholly inequitable to direct reinstatement with full back wages and therefore he alternatively submits instead of passing order of reinstatement reasonable compensation may be awarded in accordance with settled principles of law relying on S.K. Verma V/s. Industrial Tribunal-cum-Labour Court New Delhi AIR 1981 SC 422. At this juncture it is relevant to quote the observations of Their Lordships in Hindustan Antibiotics Ltd V/s. Their Workmen AIR 1957 SC 948 wherein Their Lordships ruled :

“The Act is intended not only to make provision for investigation and settlement of industrial disputes but also to serve industrial peace so that it may result in more production and improve the national economy. The provisions of the Act have to be interpreted in manner which advances object of the legislature contemplated in the statement of objects and reasons. While interpreting different provisions of the Act, attempt should be made to avoid industrial unrest, secure industrial peace and to provide machinery to secure that end.”

15. In the case in hard workmen under reference worked continuously for about 5—20 years. They were retrenched on 16-9-99 by the company which cause was espoused before the ALC(C) and that conciliation failed. The retrenchment was wholly not bonafide and at the whim of the employer by way of victimisation. Mr. Quenim clearly admitted that they recruited the labourers for operating the

mines and that the ALC(C) in his report dtd. 7-12-2000 found the establishment running by committing irregularities. It is not that the activity is closed and therefore there is no need of workers. Considering all these aspects I find no substance in the submission of Mr. Kamat and that looking to the object of the statute company will have to be directed to reinstate the workers under reference in service in continuity with full back wages. Consequently issues are answered accordingly and hence the order :

ORDER

The action of the management of M/s. V.G. Quenim, Goa, in retrenching the services of 20 workmen working at their Sonshi Mines and workshop w.e.f. 16-6-99 is neither legal nor justified. Company is directed to reinstate the workman in service in continuity with full back wages as per law.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 31 मार्च, 2003

का. आ. 1265.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान कॉपर लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुंबई नं. 2 के पंचाट (संदर्भ संख्या 140/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-3-2003 को प्राप्त हुआ था ।

[सं. एल-43012/1/99-आई. आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 31st March, 2003

S.O. 1265.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 140/99) of the Central Government Industrial Tribunal-cum-Labour, Court, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hindustan Copper Ltd. and their workman, which was received by the Central Government on 31-03-2003.

[No. L-43012/1/99-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. II, MUMBAI

PRESENT

S. N. SAUNDANKAR, Presiding Officer

Reference No. CGIT—2/140 of 1999.

EMPLOYERS IN RELATION TO THE MANAGEMENT
OF THE GENERAL MANAGER, M/S. HINDUSTAN
COPPER LTD.

The General Manager.

M/s. Hindustan Copper Ltd.
Taloja Copper Project,
P. O. Box No. 23,
P.O. Taloja, Panvel,
Raigad-410208.

AND

Mumbai, Dated the 31st January, 2003.

Their Workmen
 The General Secretary,
 Kokan General Kamgar Union,
 Manik Bhavan, Near Jondhale High School,
 Shastri Chowk
 Dombivili 421202

APPEARANCES :

For the Employer : Mr. L.L. D'Souza
 Representative.

For the Workman : Mr. A. K. Phadke, Advocate.

AWARD

The Government of India Ministry of Labour by its Order No. L-43012/1/99/IR(M) dt. 8-6-99 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act 1947 have referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of M/s. Hindustan Copper Ltd. Taloja, in not regularising 15 workmen (as per annexure) in employment w.e.f. 30-1-1991 is legal and justified? If not, to what relief the workmen concerned are entitled?”

ANNEXURE

Sr. No.	Name of Employee	Date of joining service	Department	Rate of wages (per day)	Name of contractor
1	2	3	4	5	6
1.	Mr. Anant Shankar Patil	February 1988	Charging/Gas Operating	Rs. 22/-	M/s. Balvinder Singh
2.	Mr. Ganesh Ramdas Pawase	August 1988	Coil Packing	—do—	—do—
3.	Mr. Janardhan Balu Ulvekar	September 1988	—do—	—do—	—do—
4.	Mr. Changdev Shimgya Gaikwad	January 1989	Gardening & Sweeping	—do—	M/s. C.D. Bende
5.	Mr. Suresh Laxman Patil	August 1988	Overhead Crane Helper	—do—	M/s. Balvinder Singh
6.	Mr. Manik Rambhau Gaikar	October 1988	Coil Packing	—do—	—do—
7.	Mr. Dhanaji Ramdeo Kathe	February 1989	Charging Operator	—do—	—do—
8.	Mr. Chandrakant Nathuram Kumbhar	February 1989	Engingg. Stores Handler	—do—	M/s. C.D. Bende
9.	Mr. Suresh Kana Patil	January 1989	Gardening & Sweeping	—do—	—do—
10.	Mr. Ranjeet Singh.	September 1988	Coil Packing	—do—	M/s. Balvinder Singh
11.	Smt. Sarojadevi Suresh Chandra Yadav (L/R of deceased Mr. Suresh Chandra Yadav)	September 1988	Coil Packing	—do—	—do—
12.	Mr. Harishchandra Ragho Jadhav	January 1989	Coil Packing	—do—	—do—
13.	Mr. Vishnu Tukaram Dhongade	January 1989	Maintenance Helper	—do—	M/s. Ajeet Engg.
14.	Mr. Kamlesh Soni	February 1989	Coil Packing	—do—	M/s. Kumar & Kumar
15.	Mr. Popat Sarjerao Waghmare	February 1989	Coil Packing	—do—	—do—

2. Vide Statement of Claim (Exhibit-7) Kokan General Kamgar Union pleaded that the workers under reference mentioned in Annexure worked with management Hindustan Copper Ltd. during the period 1988 till the end of January '91 the detail duration mention in Annexure. They worked continuously more than 240 days however they were shown workers of different contractors as shown in annexure. It is averred the workers under reference were paid wages @ Rs. 22/- per day which was almost less than 1/3rd wages paid to the permanent workmen of the Hindustan Copper who were doing similar work of production i.e. Charging/Gas Operating/Coil Packing, Overhead Crane/Stores/Maintenance etc. which was of permanent nature. It is contended the workers under reference were not allowed to enter into the factory premises on and from February '91 neither they were given letter of termination nor retrenchment compensation either by the Principal employer nor the contractor. It is pleaded that the workers had filed complaint bearing ULP No. 97 of 1992 before the Industrial Court, Thane for regularisation of their services however that was shown as amicably settled and was withdrawn on 21-2-96, though infact, they were not aware of that. It is pleaded management company after terminating the workmen under reference, recruited fresh candidates therefore the termination being illegal, the management be directed to reinstate them with full back wages.

3. Management Company resisted the claim of union by filing Written Statement (Exhibit-10) contending that for the similar relief union had filed complaint Us/ No. 97/92 which was mutually settled vide settlement dtd. 1-2-96 and that the Industrial Tribunal Thane had passed order to that effect on 22-2-96/31-7-98. Consequently the instant reference for the said relief is barred by principle of res judicata. It is averred that the workers under reference are not the employees of the company. They were engaged by the contractors therefore master and servant relationship does not exist. It is contended the workers being of contractors question of termination of their service by the company does not arise. It is averred that the services of the workers, said to have been terminated w.e.f. 1-2-91 and the cause was espoused in 1999 i.e. after about 8 years thereby the reference suffers from delay and laches. Company consequently prayed for dismissal of the claim with costs in limine.

4. On the basis of the pleadings by Learned Predecessor framed issues (Exhibit-12) and in that context workers under reference viz. Chandrakant Kumbhar, Popat Sarjerao Waghmare, Kamlesh Soni, Janardan Balu Ulvekar, Anant Shankar Patil, filed stereo type affidavits in lieu of Examination in Chief vide Exhibits-14, 15, 16, 17, 40 and union closed oral evidence vide purshis (Exhibit-43). In rebuttal, management filed affidavit in lieu of Examination in Chief of Process Engineers Mr. Kajal Pal and Mr. Judhajit Bhattacharjee, Assistant General Manager-Finance

Mr. Bhaskarjyoti Gangopadhyay and Assistant manager-personnel Mr. T.V.H. Rao vide Exhibit-45/46/48/51 and management closed oral evidence vide purshis (Exhibit-52).

5. During the pendency of reference workmen named in Annexure at Serial No. 11 has expired and that his wife as L/R has been brought vide (Exhibit-57).

6. Union filed written submissions (Exhibit-54) and the management (Exhibit-55) and the rulings with list (Ex-56). On hearing the Learned Counsel for the Union and the representative for the management and perusing the record as a whole and the written submissions, I record my findings on the following issues for the reasons stated below :—

Issues	Findings
1. Whether there is relationship of employer and employee between the management and the concerned workmen?	No
2. Whether in view of the Memorandum of Settlement dtd. 1-2-96 the reference does not survive?	No Reference survive.
3. Whether the action of the management of M/s. Hindustan Copper Ltd. Taloja in not regularising 15 workmen in the employment w.e.f. 30-1-91 is legal and justified?	Workers under reference were not employees of the company, question of regularising them does not arise.
4. If not, what relief the workmen are entitled to?	As per order below.
5. Whether the reference suffers from delay and laches?	No

REASONS

7. At the outset the Learned Representative for the management company Mr. D'Souza submits that the workers under reference said to have been terminated from 1st February '91 and that the cause was espoused in the year 1999 i.e. after about 8 years and that delay has not been explained and on this count the reference is not maintainable. He submits that Their Lordships of the Apex Court held that point of delay is to be considered on the basis of facts of each case and from that point of view, delay of eight years certainly bars the reference. The Learned Counsel Mr. Phadke pointed out that workmen are weaker section. The object of the act is to improve the service conditions of the Industrial Labour so as to provide them the ordinary amenities of life and by way of process to bring about industrial peace which would in its turn accelerate productivity activity of the country resulting in its prosperity. Therefore he submits delay does not come in the way of workmen under the I.D. Act no limitation is

prescribed. He has relied on the decision of the Apex Court in Ajaib Singh V/s. The Sirhind Co-operative cum-Processing Service Society Ltd. & Anr. JT 1999 (3) SC 38 wherein Their Lordships observed :—

“The act was brought on the statute book with the object to ensure social justice to both the employers and employees and advance the progress of industry. It is a piece of legislation providing and regulating the service conditions of the workers.”

In Hindustan Antibiotics Ltd. V/s. Their Workmen, AIR 1967 SC 948 Their Lordships ruled :

“The Act is intended not only to make provision for investigation and settlement of industrial disputes but also to serve industrial peace so that it may result in more production and improve the national economy. The provisions of the Act have to be interpreted in a manner which advances object of the legislature contemplated in the statement of objects and reasons. While interpreting difference provisions of the Act, attempt should be made to avoid industrial unrest, secure industrial peace and to provide machinery to secure that end.”

No doubt, union nowhere in the statement of claim pointed out as to why delay of eight years occurred in espousing the cause and that in view of the decision of the Hon'ble Apex Court inordinate delay is necessary to be explained but since the workmen are of poorer section considering the object of the Act in the light of the decision referred to above, and that no limitation is prescribed the reference cannot be thrown out and from this point of view, it can be said to be maintainable : Consequently Issue No. 5 is answered in the negative.

8. The crucial point is whether the workers under reference were employees of the management Corporation. According to the workers they were in the employment of management company since 1988 to January 1991. However, they were so taken through contractor viz. Mr. C.D. Bendre, M/s. Kumar and Kumar & M/s. Balwinder Singh etc. They disclosed that they were given passes periodically on month to month basis by the company and that company was their employer and added that they worked more than 240 days continuously and that without giving notice pay, retrenchment compensation, they were terminated orally illegally. In cross-examination workers Chandrakant Kumbhar admitted that he worked as helper and that his wages were paid by CD Bendre contractor, Popat Waghmare stated that he was paid wages by M/s. Kumar & Kumar, Kamlesh Soni pointed out that he was also paid wages by M/s. Kumar and Kumar, Janardan Balu admitted that he was not given appointment letter by management company so also Anant Patil disclosed to that effect that he was not given appointment letter by the company and that according to him, he was receiving wages from Balwinder Singh. He clearly admitted that the workers under reference were not given appointment letter by the company. According to the management witness Mr. Pal and Mr. Bhattacharjee workers under reference were engaged by contractor and they were not employees of the company and added that their work was being supervised by contractor themselves.

The Learned Advocate Mr. Phadke at this juncture submits that contractors are sham and that the workers under reference in fact and in reality are employees of the company and the mere fact that they were not appointed or paid by the company they cannot be stamped as contractor employees. He has relied on the decision in Food Corp. of India Workers Union V/s. Food Corporation of India, 1990 I CLR 829. The test of determining relationship of master and servant has been laid down in *catena of Judgements*. The principles which emerges from the authorities is that the *prima facie* test is the existence of right in the master to supervise and control the work done by the servant not only in the matter of directing what work the servant has to do but also the manner in which he shall do his work. In Chintaman Rao V/s. State of M.P., AIR 1958 SC 388 Their Lordships observed :—

“There is therefore, a clearcut distinction between contractor and workman, the identifying mark of later is that he should be under the control and supervision of employer in respect of the details of work.”

In the case in hand, workers under reference were not appointed nor their wages were paid by the company. From the evidence nothing to show that their work was being supervised by the company. To establish relationship control and supervision of the work is relevant and these factors clearly establish from the evidence the workers under reference were employees of the contractors and that relationship of contractors with the company was principal to principal. Consequently the workers being the employees of contractors and not the company question of their termination and consequent relief of regularisation by the company in view of the position, does not arise.

9. Reference is made of Steel Authority of India Ltd. case wherein Their Lordships observed the court can go into the root of the matter to see whether contractor is a mere sham, name lender to deprive the rights of the workers under the industrial law. However on perusal of the statement of claim and also the evidence of the workmen nowhere point out that the contractors are sham and camouflage and that the real employer is the company. Therefore the said decision is no avail to the union.

10. The Learned Counsel Mr. Phadke for the union submits that Assistant Manager of the company Mr. Rao in cross-examination para 7 admitted that the settlement dtd. 1-2-96 (Exhibit-22) was entered into between the management and the union in connection with the workers under reference and that this establish the relationship as employer and employee thereby the company is the principal employer. On perusal of the settlement nowhere finds that the company concede the workers under reference as its employees. It mentions by way of mutual agreement 30 members in the list covered under the dispute in the Industrial Court Thane were agreed to be employed by the company on casual basis on minimum wages prescribed by the Government of Maharashtra. Therefore on going through the evidence as a whole, it is apparent that the workers under reference were employees of contractors and not the company. Consequently Issue No. 1 is answered to that effect.

11. Apart from this it is clearly seen from the record that some workers under reference vide Misc. Appln. No. 4/5 of 1996 had sought similar relief from the Industrial Court Thane, (Maharashtra State) and the Industrial Tribunal held that it had no jurisdiction and consequently those applications were dismissed by the order dated 31-7-98. The Learned Representative Mr. D'Souza on this count urged with force that this order of the Industrial Tribunal, Thane since not disturbed, operates as res judicata and on this count the reference is not maintainable for the same relief. On perusal of the order of Industrial Tribunal dated 31-7-98 (Exhibit-23) it is seen all the workers under reference were not party to the said proceedings and that in the instant reference the union is the party and not the individual workers, thereby the memorandum has no relevance. Therefore, I find no substance in the submission of Mr. D'Souza. Consequently Issue No. 2 is answered in the negative. Since the workers under reference as stated above were not employees of the management company question of regularising their services does not arise, therefore Issue No. 3 is answered to that effect. Consequently none of the workers under reference are entitled to any relief, and the reference deserves to be dismissed and hence the order :—

ORDER

Reference stands dismissed.

No order as to costs.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 31 मार्च, 2003

का. आ. 1266.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार न्यूकिलयर पॉवर कार्पोरेशन लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण नं. 2, मुम्बई के पंचाट (संदर्भ संख्या सी जी आई टी-2/54 ऑफ 2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-3-2003 को प्राप्त हुआ था।

[सं. एल-42012/19/2000-आई. आर.(डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 31st March, 2003

S.O. 1266.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/54 of 2000) of the Central Government Industrial Tribunal/Labour Court No. 2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Nuclear Power Corporation Ltd. and their workman, which was received by the Central Government on 31-3-2003.

[No. L-42012/19/2000-JR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT:

S. N. Saundankar, Presiding Officer

Reference No. CGIT-2/54 of 2000

Employers in relation to the Management of General Manager (P & A) Nuclear Power Corporation.

General Manager (P&A)

Nuclear Power Corpn.,

Vikram Sara Bhawan,

Anushakti Nagar,

Mumbai-400 094.

AND

Sh. Shambu Bhagat Sharvati,

C-18, New Mandela,

Anushakti Nagar,

Mumbai 400 094.

APPEARANCES:

For the Employer : Mr. V. H. Kantharia,
i/b M/s. Rajesh Kothari & Co.,
Advocates.

For the Workman : Mr. Jaiprakash Sawant,
Advocate.

Mumbai, dated the 30th January, 2003

AWARD—PART-I

The Government of India, Ministry of Labour by its Order No. L-42012/19/2000-IR (DU) dated 1-6-2000 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Nuclear Power Corporation Ltd., Mumbai by terminating the services of Mr. Shambu Bhagat, Steno w.e.f. 2-5-1997 is justified? If not, to what relief the workman Mr. Shambu Bhagat is entitled?”

2. Workman Bhagat was employed as Stenographer with the Management Corporation from 23-8-93. By Statement of Claim (Exhibit-3) workman pleaded that Corporation placed him under suspension by the order dated 4-9-96 and that he was issued chargesheet dated 19-9-96 and directed him to deposit Rs. 36,170/- to the accounts section. It is pleaded workman replied the said chargesheet on 26-9-96. However, without considering the reply, domestic inquiry was conducted against him. Workman averred that inquiry held against him was not fair and proper. He was not given subsistence allowance at

increased rate, Corporation had no authority of law to hold inquiry, he was not given sufficient opportunity and further averred that inquiry officer was bias and that findings recorded by him are perverse. He pleaded that he had preferred appeal against the findings of the inquiry on 11-10-99 however that was turned down on 29-11-99. It is pleaded management based on the report dtd. 22-4-99 holding him guilty illegally dismissed from the service w.e.f. 23-8-99 and not from 2-5-97 as mentioned incorrectly in the schedule. He pleaded inquiry being unfair management be directed to reinstate him in service with full back wages.

3. Management Corporation resisted the claim of workman by filing Written Statement (Exhibit-8) contending that the workman while working as junior stenographer by preparing false overtime claims forging the signatures of the officers, drew amount of Rs. 36,170/- thereby committed serious misconduct. It is pleaded that during the period May'95 and July 1996 he prepared bills of overtime, forging the signatures of the Controlling Officer and the Director Corporate Finance and that by the letter dated 4-1-96 he admitted the same. It is contended to prefer fraudulent overtime bills amounts to misconduct under the service rules and therefore inquiry was conducted against the workman by giving chargesheet dated 19-9-96. It is pleaded giving sufficient opportunity to both parties, inquiry officer recorded the findings and that Disciplinary Authority hearing the workman, imposed the punishment of dismissal from service upon him. So far subsistence allowance, it is pleaded the workman was paid as per rules and that in accordance with the extent rules and as per the Principles of Natural Justice inquiry was held and that the inquiry being fair and proper and the findings being based on the evidence and the material before are not perverse. Consequently Corporation contended inquiry being fair the claim of the workman be dismissed with costs.

4. By Rejoinder (Exhibit-9) workman reiterated the recitals in the Statement of Claim denied the averments in the Written Statement. He pleaded that he was compelled to write and sign some papers by Shri H. S. Iyer, Vigilance Officer on 4-9-96. He averred that he had not committed any misconduct and that inquiry vitiates.

5. On the basis of pleadings preliminary issues were framed at (Exhibit-11) and in that context workman filed affidavit in lieu of Examination-in-Chief (Exhibit-19) and closed evidence vide purshis (Exhibit-20). Inquiry Officer (Manager—P&JR) Mr. Chopra filed affidavit (Ex-25) and management closed oral evidence vide purshis (Ex-26).

6. Workman filed written submissions (Exhibit-27/29) and the rulings with list (Exhibit-31) and the management (Exhibit-28). On perusing the record, the written submissions and hearing both the counsels, I record my findings on the following preliminary issues for the reasons mentioned below :—

Issues	Findings
1. Whether the domestic inquiry held against the workman was as per the Principles of Natural Justice?	Yes
2. Whether the findings of the inquiry officer are perverse?	No

REASONS

7. Admittedly domestic inquiry was held by the Management Corporation against the workman Shri Bhagat. According to workman inquiry was not fair and proper and that findings recorded are perverse. Insofar as domestic inquiry is concerned Their Lordships of Apex Court in Sur Enamel and Stamping Works Vs. Their Workmen 1963 II LLJ SCC pg. 367 ruled that enquiry cannot be said to have been properly held unless :

- (1) The employee proceeded against has been informed clearly of the charges levelled against him;
- (2) the witnesses are examined ordinarily in the presence of the employee in respect of the charges;
- (3) the employee is given a fair opportunity to cross-examine witnesses;
- (4) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter; and
- (5) the inquiry officer records his findings with reasons for the same in his report.

Let us scrutinize the evidence on record in the light of the above tests. By way of affidavit workman stated that documents including the vigilance report in respect of the incident i.e. overtime applications for the period from May'1995 to July 1996 were not produced. He further disclosed that he was not paid subsistence allowance at the revised rates prescribed under the provisions of the law thereby prejudice had caused to him and added that the Disciplinary Proceedings were instituted against him on the basis of regulation violative of Principles of Natural Justice. So far subsistence allowance is concerned, workman denied on getting subsistence allowance however he had not pointed out how much he was getting and under the provision how much he was entitled to. The Learned Counsel Mr. Sawant at this juncture relying on the decision of Hon'ble Bombay High Court in Bharat Petroleum Corporation Ltd. Vs. Ramnath Jagdish Tiwari & Ors. 1994 II CLR 1117, submits that non-payment of sufficient subsistence allowance violates the Principles of Natural Justice. On perusal of the inquiry proceedings filed with list (Exhibit-23/14) it is seen workman was receiving subsistence allowance. There is a difference in non-

payment of subsistence allowance and giving less subsistence allowance. In the case in hand workman was paid subsistence allowance however according to him it was less. He has not pointed out as stated above how much he was entitled. What is relevant is by not paying full subsistence allowance any prejudice had occasioned thereby workman was unable to attend the inquiry. On perusal of the record and also workman admits that he was present in the inquiry throughout, therefore hardly can be said that on this count prejudice had caused to workman. So far the documents are concerned, inquiry officer Mr. Chopra in his evidence para 12 pointed out that the documents i.e. vigilance report of the incident dated 4-9-1996 was not in the office and that Over time claim copies were not traceable. According to workman he did not get the copies of all the inquiry proceedings however admits in cross-examination para 9 that he was given copies of all the documents produced in the inquiry. It is not that copies of the documents relied by the management were not given, therefore, there is no substance in the contention of workman that inquiry vitiates on this count.

8. So far the regulation is concerned, workman in his cross-examination disclosed that he is B.A. and that he came to know the rules and regulations when he had received the chargesheet and further admitted that affidavit (Exhibit-19) was prepared as per the advise of the counsel and specifically pointed out that recitals in so far as NPCIL have no authority by law was on the advise of counsel which indicative to show that workman is not sure as to how the regulation does not permit the holding of inquiry. The NPCIL (Conduct) Rules 1994 clearly speak that the lack of integrity to the organisation and the behaviour in the manner unbecoming of a Corporation employee is violative of Rule-6-1 (a&C) of the rules. On perusal of the record it is seen inquiry was conducted under the said rules and that rules 1996 speak on the punishment for major misconduct. There is no tailor made procedure for the domestic inquiry. Workman admits inquiry was held in his presence and that he had cross-examined the management witnesses and that he had signed the day to day proceedings. On perusal of the inquiry report filed with list (Ex-14) it is seen inquiry was commenced on 20-12-96 and ended on 5-5-98 and that report was filed on 22-4-99. It is not that inquiry was conducted hurriedly which indicative to show that sufficient opportunity was given.

9. According to workman inquiry was not as per the Principles of Natural Justice. Rules of natural justice are not embodies rules. The question whether in a given case Principles of Natural justice have been violated or not is to be found out on consideration as to whether the procedure adopted by the appropriate authority is in accordance with law or not and further whether the delinquent knew of the charges he was going to face. In short, what is required is whether workman knew the nature of accusation, whether he has been given an opportunity to state his case and whether the authority has acted in good faith. In the case

in hand, workman is graduate, was present in the inquiry through out and that he was getting copies of the day to day proceedings thereby he was fully aware and that he was given full opportunity.

10. So far perversity of findings are concerned, Mr. Sawant urged with force that the inquiry officer ignored the report of the hand writing expert and that he had heavily relied on the witnesses examined by the management who were interested in the management and thereby he was perverse. "Perversity" is that when the findings are such which no reasonable person would have arrived at on the basis of the material before him. On perusal of the inquiry proceedings filed with list (Exhibit 14) it is seen management witnesses Mr. Tandon and Mr. Sebastian clearly pointed out that disputed overtime claims preferred by workman do not bear his signatures. Workman was working as junior stenographer. He has given his statement dated 4-9-96 admitting the guilt. No doubt it is seen from the Statement of Claim, that writing according to the workman was sought under compulsion by the vigilance officer however, nothing of the sort to that effect. It is seen inquiry officer relying on the statement dated 4-9-96, in the light of the statement of the management witnesses in connection with the overtime claims preferred by workman recorded findings and that the same being based on evidence cannot be said to be perverse. Superior Officer like Director Finance and Controlling Officer had no reason to have grudge against him, a stenographer workman therefore they had no reason to depose false that their signatures were forged. In view of the position discussed supra in the light of the test laid down by the Apex Court referred to above it can safely be said that domestic inquiry conducted against the workman was as per the Principles of Natural Justice and the findings recorded by the inquiry officer are not perverse. Issues are therefore answered accordingly and hence the order.—

ORDER

The domestic inquiry conducted against the workman was as per the Principles of Natural Justice.

The findings of the inquiry officer are not perverse.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 31 मार्च, 2003

का. आ. 1267.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इस्टर्न ऑफ़ को-ऑपरेटिव मैनेजमेंट के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, भुवनेश्वर के पंचाट (संदर्भ संख्या 5/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-3-2003 को प्राप्त हुआ था।

[सं. एल-42011/33/2000-आई. आर.(डी.यू.)]

कुलदीप राय वर्मा, डैस्ट्रिक्ट अधिकारी

New Delhi, the 31st March, 2003

S.O. 1267.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 5/2000) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Institute of Co-Operative Management and their workman, which was received by the Central Government on 31-3-2003.

[No. L-42011/33/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present :

Shri S.K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE No. 5/2000

Date of conclusion of hearing—11th March, 2003

Date of passing Award—21st March, 2003

Between :

The Management of the Principal,
Institute of Co-operative Management,
Unit-VIII, Bhubaneswar-751 012

... 1st Party Management
AND

Their Workmen represented through
the General Secretary, Bhubaneswar
Industrial Workers Union (CITU),
Plot No. 32, Ashok Nagar,
Bhubaneswar ... 2nd Party Union

Appearances :

Shri S.K. Mohapatra, Advocate ... For the 1st Party
Management

Shri Surjesh Ch. Routray,
General Secretary of the Union. ... For the 2nd Party-
Workmen

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-42011/33/2000-IR (DU), dated 09-08-2000 :

“Whether the demand of the Bhubaneswar Industrial Workers Union (CITU) for regularization of S/Shri S.K. Swain, Madhab Jena, S. Appa Rao and

Trilochana Nayak and demand of casual rates of wages of Central Government is justified? If not, to what relief the four workers are entitled?”

The case of the 2nd Party as per his Claim Statement may be stated in brief.

Four disputants are concerned in this reference. They are being represented through the General Secretary of the Union. The disputant, Shri Sarat Ch. Swain and Shri S. Appa Rao stated to have been engaged as Gardeners from 1-2-1992. Shri Madhab Jena and Shri Trilochana Nayak were engaged as Sweeper during December 1991 and June 1992. Shri Madhab Jena was engaged as a Watcher to do the watch and ward job. Presently, they are getting a sum of Rs. 1,500/- per month whereas the salary of a permanent Gardener/Watcher/Security Guards comes to Rs. 4,500/- per month. It is pleaded that, the disputants undertakes to the work at par with the other employees of the 1st Party-Management and there is no difference in the nature of job and responsibility. So, the action of the 1st Party Management in paying the less salary to the disputants is unconstitutional and illegal. They demanded for their regularization but when it was not done they raised Industrial Dispute and after failure of conciliation, the present reference has been made. In their Claim Statement, prayer has been made for regularization of services of four disputants namely, S/Shri S.K. Swain, Madhab Jena, S. Appa Rao and Trilochana Nayak and for payment of salary at par with the payment made to the permanent employees of the 1st Party-Management with retrospective effect.

3. The 1st Party Management has filed their Written Statement. They have pleaded that the 1st Party Management being a training Institute and an academic institution does not come under the definition of Industry as contemplated under Section 2(j) of the Industrial Disputes Act. So, the four disputants would not come under the definition of workman. In other words it is pleaded that the reference is not maintainable. The 1st Party-Management has further pleaded that, the engagement of four disputants depends upon the availability of the work. They have never worked for more than 240 days in a calendar year. No order of appointment or engagement was issued to them against any vacant post. They have not faced any test required for the appointment. So, their claim for regularization is not justified.

4. On the above pleading of the parties, the following issues have been settled.

ISSUES

1. Whether there exists any Industrial Disputes?
2. Whether the reference is maintainable?
3. Whether the demand of the Bhubaneswar Industrial Workers Union for regularization Shri S.K. Swain, Madhab Jena, S. Appa Rao and Shri Trilochana Nayak is illegal?
4. Whether the demand of casual rates of wages of Central Government is justified?
5. To what relief the four workers are entitled?

5. Both the parties have adduced oral and documentary evidence in support of their respective case. No documents have been exhibited on behalf of the 2nd Party whereas the 1st Party—Management has exhibited documents from Ext. A to Ext. F.

FINDINGS

ISSUE No. I & II

6. As both the above issues are interrelated to each other I have taken both the issues together for convenient sake. The main stand of the 1st Party—Management is that their institution i.e. the Institute of Co-operative Management will not come under the definition of Industry. According to the 1st Party—Management this Institute is a training Unit and an academic institute. In support of this stand, the 1st Party—Management has relied on the judgement of the Hon'ble High Court of Orissa passed in O.J.C. 5277/99, which has been filed (Ext-G). The O.J.C. was filed by one Shri Kirtan Bihari Samal against the present Management. The petitioner sought for the relief under the Industrial Disputes Act claiming to a workman in terms of the Industrial Disputes Act. But the Hon'ble High Court have been pleased to record a findings that, the Institute of Co-operative Management being a Training Institute set up by National Council for Co-operative Training to impart training and education to personnel of Government Departments and Co-operative Institutions besides general students and hence is not an industry within the scope and ambit of Section 2(j) of the Industrial Disputes Act. In view of the above observations made by the Hon'ble High Court I agree with the submissions made on behalf of the 1st Party—Management that the Institute of Co-operative Management, Bhubaneswar would not come under the definition of the Industry and the disputants would not be called as workman. Hence, both these issues are answered accordingly.

ISSUE No. III

7. Admittedly no orders of appointment or engagement have been produced by the disputants. Similarly, no materials have been placed to satisfy the Tribunal that they have worked for more than 240 days in a calendar year. They have not faced any interview nor they have appointed against any vacant posts. The evidence adduced on behalf of the 1st Party—Management that the services of the disputants were utilized for a particular period has not been shaken in the cross examination. So, in that case the demand made for regularization of the services of the four disputants it not legal and justified. Hence, this Issue is answered accordingly.

ISSUE NO. IV

8. The wages has been made at par with the rate fixed by the Government of Orissa to Casual Labourers. The circular has been placed before the Tribunal by the 1st Party—Management to justify the payments. No materials have been placed before the Tribunal by the 2nd Party to show that they are entitled for more wages than paid to them. Once, they are not treated as permanent employees

of the 1st Party—Management, they are not entitled for the salary at par with the permanent employees of the 1st party—Management. So, their demand for payment for more wages is not justified.

ISSUE No. V

9. In view of my findings given in respect of Issue No. I, II, III and IV, the four disputants are not entitled for any relief.

10. Reference is answered accordingly.

Dictated & Corrected by me.

S. K. DHAL, Presiding Officer

ANNEXURE

BEFORE THE C.G.I.T.-CUM-LABOUR COURT: BHUBANESWAR

LD. Case No. 5/2000

List of the Witnesses Examined on behalf of the 2nd Party—Workmen.

WW. No. 1 Shri Madhab Jena.

List of the Witnesses Examined on behalf of the 1st party—Management.

M. W. No. 1 Shri Raghavananda Sahoo.

List of Documents exhibited on behalf of the 2nd Party—Workman.

Nil.

List of Documents exhibited on behalf of the 1st Party—Management.

Ext. -A Authorization of the Management dated 13-9-2002 authorizing Shri R.N. Sahoo to give evidence.

Ext.-A.1 Signature of the Principal of the Institute of Co-operative Management.

Ext. B. Xerox copy of the by-laws of the Society.

Ext. C. Series

Copies of the papers to show that the payment of wages to the disputants, copies has been certified (11 sheets).

Ext. -D. Intimation letter, dated 19-5-2000 to the Labour Commissioner with copy to each disputants that the disputants are neglecting their works.

Ext.-E. Copy of Office Order, dated 8-8-2000 informing to the disputants enhancement of wages Rs. 40/- to Rs. 50/-.

Ext. F. Copy of the order, dated 14-5-2002, and the disputants has been informed to be sincere in their work.

Ext.-G. Copy of the judgement of the Hon'ble High Court in O.J.C. 5277/99.

नई दिल्ली, 31 मार्च, 2003

का. आ. 1268.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार तुंगभद्रा हाइड्रो इलेक्ट्रिकल स्कीम के प्रबंधनत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बैंगलौर के पंचाट (संदर्भ संख्या 64/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-3-2003 को प्राप्त हुआ था।

[सं. एल-42012/119/97-आई.आर.(डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 31st March, 2003

S.O. 1268.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 64/98) of the Central Government Industrial Tribunal/Labour Court Bangalore now, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tungabhadra Hydro Elec. Scheme and their workman, which was received by the Central Government on 31-3-2003.

[No. L-42012/119/97-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT

“SHRAM SADAN”,

III, Main III Cross, II Phase, Tumkur Road,
Yeshwanthpur, Bangalore.

Dated : 19th March, 2003.

PRESENT

Hon'ble Shri V.N. Kulkarni, B.Com. LL.B.

Presiding Officer

CGIT-cum-Labour Court,

BANGALORE

C.R. No. 64/1998

I Party

Shri P. Prabhakar,
44/9, P.L.C.,
Tungabhadra Dam-
583 225,
Hospet Taluk,
Bellary (Distt.)
Karnataka

II Party

The Suptd. Engineer,
Tungabhadra Hydro
Elec. Scheme,
Tungabhadra Dam-583 225
Hospet Taluk,
Bellary (Distt.)
Karnataka.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (2A) of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-42012/119/97/IR (DU) dated 3rd July 1998 for adjudication on the following scheme :

SCHEDULE

“Whether the management of Superintending Engineer, Tungabhadra Hydro Elec. Scheme, Tungabhadra Dam is justified in terminating the services of Shri P. Prabhakar, NMR Typist w.e.f 1-2-1986. If not to what relief the workman is entitled?”

2. The first party workman was working with the management. His services were terminated and therefore, Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as under :

5. The first party workman was appointed by the Second Party as NMR typist with effect from 1980 and he was discharging his duties properly. He was paid daily wages. Wages were paid on the stamped receipts. He was doing the permanent nature of work in fact the management was required to regularize his services but employment was refused illegally w.e.f. 1st February 1986. It is a case of retrenchment as defined under section 2(oo) of the Industrial Dispute Act. Mandatory provisions of Section 25F are not been complied. The termination is in violation of provisions of Industrial Disputes Act. It is a case of victimization. Workman for these reasons and for some other reasons has prayed to allow the reference.

6. As against this the case of the management can be narrated as under :

7. The main contention of the management is that the Board is a part and parcel of the state of Karnataka as well as the state of Andhra Pradesh. This dispute is not maintainable under Section 10(1)(d) of the Industrial Disputes Act, 1947. All that is stated in detail as per Paras 2, 3 and 4 of the Counter. There is no violation of provision of Industrial Disputes Act. Another main contention of the management is that the workman has not worked for 240 days continuously. Management for these reasons and for some other reasons has prayed to reject the reference.

8. Management examined one witness Shri H. Gangaiah, Superintendent Engineer. His evidence is that the workman was working as NMR Typist. He was employed on NMR basis. He worked up to 1986. The first party requested for regularization and that were not done. He further said that the board has no power to recruit the employees. He also said that the workman has not worked for 240 days.

9. Against this workman gave evidence as WW1 and has stated that he worked with the Management from 1980 to 1986 continuously as Typist. This is all the evidence.

10. I have perused the documents and read the evidence carefully. I have heard the learned counsel appearing for the parties.

11. The management has filed Written Argument. First party has relied the following decisions :

- (1) ILR 2002 KAR page 3573-3585
- (2) ILLJ 1985 Page 520-543
- (3) 1988 ISCC Page 122-132
- (4) ILR 1994 KAR 2728

12. The main contention of the workman is that he has worked with the management from 1980 to 1986. His further contention is that some other workers like him working with the management were regularized and this is the case of victimization.

13. In order to appreciate this contention I am of the opinion that the cross examination of MW1 is very material. It is seen from the records that the workman throughout has been asking the management to produce NMR. There was a direction from the Tribunal to the management to produce NMR. Notice was also issued to the management to produce NMR. But for the reasons best known to the management it has not filed the NMR.

14. MW1 admits in his cross examination that NMR is not produced. He further said that they have not maintained any attendance with regard to this workman. He further admits that some of the workmen who worked under NMR scheme were regularised. He also said in his cross-examination that Juniors to first party workman also regularised. One thing is clear from the above cross-examination of MW1 is that NMRs are not produced. In spite of efforts made by the workman the management has not filed NMR.

15. The learned Counsel appearing for the workman has relied four decisions. Keeping in mind the principles held in the decisions and the fact that the NMRs are not produced by the management, it is sufficient to say that the management has discharged the initial burden to prove that he has worked continuously with the management from 1980 to 1986. Management has produced statement of the workman whose services are utilized for official work. This is not sufficient in the absence of NMR. Again Exs. M2 and M3 are also not sufficient to prove the case of the management. Ex. M1 is the representation given by the workman. When the workman says that he has worked continuously from 1980 to 1986, it is for the management to disprove the said facts by producing NMRs. But the

management has not produced NMRs and this itself is sufficient to say that the workman has worked from 1980 to 1986. As per the admission of MW1 other similar workmen are regularised.

16. Considering all this I am of the opinion that the workman is entitled for regularization.

17. I have read the written argument filed by the management carefully. The main contention of the management is that the Industrial Disputes Act is not applicable to the board. The learned counsel appearing for the management has not properly convinced this aspect. The provisions of Industrial Disputes Act are applicable and the management is not justified in terminating the services of the workman. Considering all this I proceed to pass the following Order :

ORDER

The reference is partly allowed. The management is directed to regularize the services of the workman if he fulfils all other conditions. No other benefits are awarded. Accordingly reference is disposed off.

(Dictated to PA transcribed by her corrected and signed by me on 19th March, 2003).

V.N. KULKARNI, Presiding Officer

नई दिल्ली, 31 मार्च, 2003

का. आ. 1269.—ऑटोग्राफिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार तुंगभद्रा बोर्ड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑटोग्राफिक विवाद में केन्द्रीय सरकार ऑटोग्राफिक अधिकरण, बैंगलौर के पंचाट (संदर्भ संख्या 51/89) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-3-2003 को प्राप्त हुआ था।

[सं. एल-42011/55/88-डी. II(बी)]

कुलदीप राय बर्मा, डैस्क अधिकारी

New Delhi, the 31st March, 2003

S.O. 1269.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 51/89) of the Central Government Industrial Tribunal/Labour Court, Bangalore now, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tungabhadra Board and their workman, which was received by the Central Government on 31-3-2003.

[No. L-42011/55/88-D.II(B)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT

"SHRAM SADAN",

II Main, III Cross, II Phase, Tumkur Road,
Yeshwanthpur, Bangalore.

Dated : 18th March, 2003.

PRESENT

Hon'ble Shri V.N. KULKARNI, B.Com. LL.B

Presiding Officer

CGIT-cum-Labour Court,

BANGALORE

C.R. No. 51/1989

I Party

The President,
Tungabhadra Board
Factory Workers
and Civil Employees
Union, T.B. Dam,
Hospet Taluk, Bellary
Distt.-583 101

II Party

The Secretary,
Tungabhadra Board,
T.B. Dam,
Hospet Taluk,
Bellary Distt.-583 101

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-42011/55/88-D.II(B) dated 1st August, 1989 for adjudication on the following schedule

SCHEDULE

"Whether the action of the management of Tungabhadra Board T.B. Dam, Hospet Taluk, Bellary District, in not allowing S/Shri K.P. Periyappa, H.G. Gundachar, B.M. Mahanthaiah, R. Aligiri, H.M. Gangadhar and A. Govindarajulu, to continue in service up to 60 years of age, is justified? If not, to what relief the workman is entitled?"

2. The first party Union workmen were working with the Second Party. The grievances of the union is that the management has not allowed S/Shri K.P. Periyappa, H.G. Gundachar, B.M. Mahanthaiah, R. Aligiri, H.M. Gangadhar and A. Govindarajulu, to continue in service up to 60 years of age and therefore, Union has raised this Industrial Dispute.

3. At the trial only one workman Shri Gundachar has contested the dispute and the union has not taken any step for others.

4. Parties appeared and filed Claim Statement and Counter respectively.

5. The case of the union is that six workmen as stated in the Claim Statement were working with the management. They were appointed on work charged establishment under paragraph 69 of the Madras Public Works Departmental Code, which empowers the Executive Engineers, PWD to make such temporary appointments up to a monthly pay of Rs. 100/- per month and these appointees belonged to inferior services and there was no categories or groups evolved on any scientific basis and as per the conditions of service then obtaining the age of superannuation was 60 years and not 58 years and therefore this dispute is raised. In the meanwhile Shri K.P. Periyappa and Mahantaiah filed writ petition in the High Court of Karnataka.

6. It is the further case of the union that as per the judgement of the High Court of Karnataka every person who was discharging the duties of any post in the areas which became the part of Karnataka as on 1-11-1956 was an allottee to the State and Section 115 of the States Reorganization Act would apply and these workmen were appointed as work charged establishment prior to 1st November, 1956 when the T.B. Project was under the control of the State of Madras and then came under the control of the State of Madras and then came under the Tungabhadra Board after its formation on 1-10-1953 and they are allottees to the new unit and such persons are entitled to higher age of retirement. Copy of the judgement of the Administrative Tribunal is also filed. Union for these reasons and for some other reasons has prayed to direct the management to grant all consequential benefits treating the age of retirement as 60 years and not 58 years.

7. As against this the case of the management in brief is as follows :

8. It is said that the dispute is not maintainable. It is further said that the Conciliation Officer has no jurisdiction to consider and to give findings in respect of jurisdiction. The dispute raised by the workmen under Industrial Disputes Act is not valid as the Industrial Disputes Act is not applicable to Tungabhadra Board. The status of the Board has been enunciated by the Ministry of Irrigation and Power in their letter dated 28-11-1961 and the board functions purely as a limb of the Government. Regarding status of the board details are given in the counter.

9. It is further said that as per the judgement of the Hon'ble Supreme Court workers engaged by State Government are not covered by Industrial Disputes Act. It is lastly said that without prejudice, it is stated that the Petitioners were appointed as work charged personnel under Madras Public Works Department Code by the P.W. Officers of the erstwhile Madras Government prior to 1-11-56 and were not appointed to the last grade Government Service i.e. Group D Cadre. The protection of superannuation given up to 60 years was only in respect of last grade Government servants of erstwhile state of

Madras who were in service on the date of re-organisation of State (1-11-56) and not in respect of work charged establishment of erstwhile State of Madras. Management for these reasons and for some other reasons has prayed to reject the reference.

10. It is seen from the records that earlier the reference was rejected for non-prosecution and miscellaneous application was allowed and the reference is restored.

11. In the instant case management examined MW1. He is an Accounts Officer. His evidence is that while constructing TB Dam these workmen were appointed as Maisteries and subsequently on reorganization of Mysore State they all opted for Mysore Govt. Service Rules. At that time the retirement age was 58 years.

12. During the cross examination MW1 has stated that he does not know if persons governed by Hyderabad Civil Service Rules were to retire at the age of 60 years as per the order of the High Court of Karnataka and he does not have if the orders passed by the High Court of Karnataka are applicable to the workmen. All this would go to show that MW1 has no knowledge of the service conditions of the workmen. The evidence of MW1 is not sufficient to prove the case put forth by the management.

13. Apart from this in the counter itself lastly it is stated that without prejudice the age of superannuation was 60 years for Group D Cadre. In view of the evidence of MW1 and the contention in the counter statement would go to show that the case put forth by this workman is correct and he is to retire only at the age of 60 years.

14. The workman has filed judgement of the High Court of Karnataka in Writ Petition No. 16663/81 and some other Writ Petitions. I have read the judgement very carefully. Facts of the above decisions are quite similar to the facts of the case on hand. In Writ Petition No. 16663/81 the order passed by the management regarding retirement orders is squashed. Again the workman has relied the judgement in Writ Petition No. 1001 & 1002 of 1975. The High Court of Karnataka has held that the age of retirement of the workmen are governed by Rule 231 of the Hyderabad Civil Service Rules and the order of retirement is in violation of the rules.

15. Again the workman has relied judgement in Writ Petition No. 3628 of 1975. The High Court of Karnataka in all the writ petitions have said that the age of superannuation was fixed at 60 years. The workman is also governed by Rule 231 of Hyderabad Civil Service Rules so he is entitled for superannuation at the age of 60 years.

16. Considering all this I am of the opinion that the order of the management in respect of superannuation of Shri Gundachar is not correct.

17. In the instant case both the parties have filed Written Arguments. I have read them carefully. I have considered the documents filed by the parties.

18. Keeping in mind the principles held in the decisions of High Court of Karnataka I am of the opinion that this workman is entitled to retirement only at the age of 60 and not at the age of 58 years. In the written arguments of the workman various judgements in Writ Petitions are cited and it is submitted that the first party workman is entitled for similar relief and his superannuation is only at the age of 60 years and not at the age of 58 years.

19. It is only said by the management in the written arguments that the dispute is not maintainable. But the learned counsel appearing for the management has not convinced the same. There is no evidence to believe the case of the management that the first party workman was not appointed as workcharged personnel under Madras Public Works Department by the P.W officers of the erstwhile Madras Government prior to 1st November 1956. Management has not proved that this workman was appointed in 'C' category.

20. Considering all this and keeping in mind the principles held in the Writ Petitions of the High Court of Karnataka referred earlier I am of the opinion that this workman Shri Gundachar is to retire only at the age of 60 years, and not at the age of 58 years and the workman is entitled to get monetary benefits for two years service. I told that the workman is more than 60 years old. In view of this he is entitled for monetary benefits.

21. In the result I proceed to pass the following Order:

ORDER

The reference is partly allowed and the management is directed to give monetary benefits to the workman. Shri Gundachar holding that his superannuation is at the age of 60 years. Accordingly the reference is disposed off.

(Dictated to PA transcribed by her corrected and signed by me on 18th March, 2003)

V.N. KULKARNI, Presiding Officer

नई दिल्ली, 31 मार्च, 2003

का.आ. 1270.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रिजर्व बैंक नोट मुद्रण लिमिटेड, के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कम-लेबर कोर्ट, बैंगलोर के पंचाट (संदर्भ संचाला सी. आर. नं. 80/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2003 को प्राप्त हुआ था।

[सं. एल-12025/2/2001-आई.आर.(बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 31st March, 2003

S.O. 1270.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (C.R.No. 80/2001) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Reserve Bank Note Mudran Ltd. and their workman, which was received by the Central Government on 28-3-2003.

[No. L-12025/2/2001-IR-(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT BANGALORE

Dated : 25th March, 2003

PRESENT :

HON'BLE SHRI V. N. KULKARNI, B. COM. ,LLB.
PRESIDING OFFICER
CGIT-CUM - LABOUR COURT,
BANGALORE.

C.R. No. 80/2001

I PARTY

Shri P. Shanmuga Prabhu,
S/o Shri V. Ponnu Velu,
No.277, Sadashiva
Mudhaliar Road,
Murphy Town,
Ulsoor,
Bangalore- 560008

II PARTY

The Management
M/s. Bhartiya
Reserve Bank Note
Mudran Limited,
Note Mudran Nagar,
Mysore- 570003

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order. No. L-12025/2/2001-I R (B-1) dated 31st October 2001 for adjudication on the following schedule:

SCHEDULE

“Whether the action of the M/s. Bharatiya Reserve Bank Note Mudran Ltd., Mysore in dismissing the services of Shri P. Shanmuga Prabhu w.e.f. 14-6-1999 is justified? If not, what relief the disputant is entitled?”

2. The first party was working with the management. According to the management he committed certain misconduct and Domestic Enquiry was held. On the basis of the Enquiry Report he was dismissed and therefore, Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of first party workman in brief is as follows :—

5. It is the case of the workman that he was appointed as an ‘Industrial Workman’ Grade-1 (process) by the Management by an order dated 8th January, 1998. He belongs to SC community. The allegations against him is that he has given false and incorrect information for his employment with the Management and therefore, he has committed misconduct. In fact he has not given any false information.

6. Regarding enquiry it is said that the same is fair and proper. Workman for these reasons and for some other reasons has prayed to pass award in his favour.

7. Against this the case of the management in brief is as follows :—

8. The main contention of the management is that the workman at the time of employment gave false information to the management. The workman while applying for job gave information that he was working in Vanpakk Packers & Freight Forwarders at Bangalore whereas on verification by the management it was proved that the information furnished by the first party was totally false and incorrect.

9. It is the case of the management that while applying for the posts in Bharatiya Reserve Bank Note Mudran Limited through IBPS, the first party furnished information in the application dated 19.11.96 about his qualification, experience etc. In the experience column the first party claimed that he is employed in Vanpakk Packers & Freight Forwarders, but it is a false information. Management for these reasons and for some other reasons has prayed to reject the reference.

10. It is seen from the records that the management examined MW1 who has conducted Domestic Enquiry. He has given detailed evidence.

11. Against this the workman gave evidence.

12. It is seen from the records that this Tribunal by its order dated 3rd March 2003 has held that the Domestic Enquiry is fair and proper. Thereafter the matter was posted for arguments on merits.

13. I have heard learned counsel appearing for the parties. Management has filed Written Arguments and has relied 3 decisions. I have heard in detail. I have carefully perused the records of the enquiry proceedings.

14. Now that the enquiry is held as fair and proper, we will have to see whether the findings given by the Enquiry Officer is correct or the same is perverse. Further we have to scrutinize whether the Enquiry Officer has correctly scrutinized the material and appreciated the evidence to hold that the charge is proved.

15. At the very outset I am of the opinion that the Enquiry Officer has not correctly appreciated the material placed by the management and the defence put forth by the workman.

16. The charge against the workman is that before getting employment the workman has filled column No. 10 regarding his previous experience. According to Ex. M2(a) before the present employment the workman had worked in 4 establishments. The last one is Vanpak Packers & Freight Forwarders. According to the advertisement notification the workman was to give only one year experience before joining the present management.

17. In view of this I am of the opinion that the question of furnishing false information does not arise at all. The workman categorically said from the beginning that he also worked with Vanpak Packers & Freight Forwarders. This is what he has mentioned in the application form given to the present management. It appears the management made investigation and Vanpak Packers & Freight Forwarders has sent Ex. M5 in which it is said that this workman has not worked with them. There is Ex. M7, another letter of Vanpak Packers & Freight Forwarders and this also says that the workman has not worked with them and the information is false. Only on this material it is said that the charge is proved and he is dismissed.

18. I have already said that the findings of the Enquiry Officer is not proper because he has not considered the defence put forth by the workman at all. It is seen from the records that the Enquiry Officer has simply relied the evidence of one management witness but he has failed to consider the evidence of workman at all and therefore, the findings is perverse. When the workman has given evidence before the Enquiry Officer and categorically says that the proprietor has told him that he is ready to say orally regarding his appointment in the said firm and he refused to give in writing because he has already given letter to the management in this regard. During the course of cross examination this workman has said that he has worked with Vanpak Packers & Freight Forwarders for 3 to 4 months.

19. Ex. M2 is the letter given by the workman stating that he approached Vanpak Packers & Freight Forwarders and they have given letter to the management and therefore, he is unable to give in writing. Ex. M3 is also given by the workman. In which he has stated that he worked only for 3 months and they have not given certificate to him.

20. It is not clearly established by the management that which official of the management went to Vanpak Packers & Freight Forwarders and got letter i.e. Performa. All this would have been correctly appreciated by the Enquiry Officer. When the workman has specifically alleged in his evidence before the Enquiry Officer that he approached Vanpak Packers and Freight Forwarders and the proprietor of the above firm informed him that he would orally say to effect that the workman has worked with him and it is also alleged by the workman that because the management had taken letter from the proprietor he is unable to give in writing to the workman that the workman has worked with the firm. This aspect has to be considered by the Enquiry Officer by summoning the proprietor of the Vanpak Packers and Freight Forwarders and render him for

cross examination by the workman. All that is not done and the Enquiry Officer and he has not enquired the matter properly but simply he relied the proforma given by the Vanpak Packers and Freight Forwarders held that the charge is proved, that too without giving chance to the workman.

21. The Enquiry Officer has said in his findings that he has considered the evidence of the parties but the officer has not considered the evidence of the workman properly and he has not considered the defence put forth by the workman.

22. In the given circumstances placing reliance on the proforma given by the Vanpak Packers & Freight Forwarders, is not sufficient and further investigation was necessary to find out the truth.

23. I have already said that according to the advertisement notification the workman was supposed to give only his one year experience before submitting the application. The workman has not furnished any false information because throughout he has been contending that he has worked with Vanpak Packers & Freight Forwarders but the Enquiry Officer has not investigated that aspect properly and has come to the conclusion only on the evidence of the management witness and the proforma given by Vanpak Packers and Freight Forwarders. Therefore, I am of the opinion that the misconduct is not proved properly.

24. Admittedly the workman was appointed by the management and he has joined as Industrial Workman Grade-1 with management. There is no complaint against the workman in respect of his work. Considering all this I am of the opinion that in view of the alleged misconduct the punishment of dismissal is too harsh and the same is not proportionate.

25. In this case I am of the opinion that provisions of Section 11 A of the I.D. Act can be invoked and this Tribunal can interfere with the punishment imposed by the Disciplinary Authority which is too harsh and disproportionate.

26. In view of these facts, I am of the opinion that this is a fit case to invoke the provisions of Section 11A of the I.D. Act and accordingly I hold that the punishment of dismissal is not proportionate. In the result I pass the following Orders :

ORDER

Reference is partly allowed and the Management is directed to reinstate the workman to his original post, which he was holding at the time of dismissal with continuity of service. In the given circumstances no other benefits are given.

(Dictated to PA transcribed by her corrected and signed by me on 25th March 2003).

V. N. KULKARNI, Presiding Officer.

नई दिल्ली, 31 मार्च, 2003

का. आ. 1271.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कम-लेवर कोर्ट, चेन्नई के पंचाट संदर्भ संख्या आई. डी. नं. 645/2001 को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2003 को प्राप्त हुआ था।

[सं. एल-12012/387/98-आई. आर. (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 31st March, 2003

S.O. 1271.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 645/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 28-3-2003.

[No. L-12012/387/98-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 21st March, 2003

Present : K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 645/2001

(Tamil Nadu Principal Labour Court CGID No. 91/99)

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the workman Sri D. Mohan and the Management of State Bank of India, Chennai.]

BETWEEN

Sri D. Mohan : I Party/Workman

AND

The Chief General Manager, : II Party/Management
State Bank of India, Chennai.

APPEARANCE :

For the Workman : M/s. Row & Reddy, S. Vaidyanathan
and S. Satish Kumar, Advocates

For the Management : Sri K.S. Sundar and M. Asha Devi,
Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned Industrial Dispute for adjudication vide Order No. L-12012/387/98-IR(B-1) dated 05-02-1999.

This reference has been made earlier to the Tamil Nadu Principal Labour Court, Chennai, where the same was taken on file as CGID No. 91/99. When the matter was pending enquiry in that Principal Labour Court, the Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu Principal Labour Court to this Tribunal for adjudication. On receipt of records from that Tamil Nadu Principal Labour Court, this case has been taken on file as I.D. No. 645/2001 and notices were sent to the counsel on record on either side-informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 18-10-2001 with their respective parties and to prosecute this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted this case further. The Claim Statement of the I Party/Workman and the Counter Statement of the II Party/Management and the reply statement of the I Party/Workman were filed earlier before the Tamil Nadu Principal Labour Court, Chennai, when the matter was pending there for adjudication :—

Upon perusing the Claim Statement, Counter Statement, reply statement filed by I Party/Workman, the other material papers on record, the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the action of the management of State Bank of India, Chennai, in denying employment to Shri D. Mohan with effect from 01-04-1997 is legal and justified? If not, to what relief the said workman is entitled?”

2. The averments in the Claim Statement filed by the I Party/Workman Sri D. Mohan (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner joined the services of the State Bank of India as temporary messenger in the year 1987. He was given appointment as messenger after interview and medical examination. His initial appointment was in December, 1987 at Karunguzhi, Chengalpet District. He was employed in various branches at K.K. Nagar and Guindy, Madras. He has completed 1682 days of service from 1987 to 1997. He

was terminated without any rhyme or reason on 31-3-97. While he was working on temporary basis in the Guindy branch of the Respondent/Bank, the Branch Manager, informed him orally on 31-3-97 that his services are not required any more from 1-4-1997. Despite both oral and written representations of the Petitioner, the Respondent/Bank remained silent by ignoring the representation of the Petitioner. Though he was designated as temporary messenger he worked as a full time messenger for the period from 1-1-92 to 31-12-93. The Petitioner actually worked 492 days and he was paid wages for Sundays also. As per the Tamil Nadu Industrial Establishment Conferment of Permanent Status Act, 1981, the Petitioner is deemed to have attained permanent status. The branches of the Respondent/Management where the Petitioner worked-maintained attendance register and wage registers. They will clearly establish the fact that the Petitioner had worked as a full time employee and had completed 480 days of service in a period of 24 consecutive calendar months. Juniors to the Petitioner are all retained in service for the Respondent/Bank. The action of the Respondent/Bank management in terminating the service of the Petitioner is in gross violation of Section 25F, 25G, and 25H of Industrial Disputes Act, 1947. It is a case of unfair labour practice and colourable exercise of power. The Respondent/Bank has terminated the services of the Petitioner for no fault. The industrial dispute raised by the Petitioner for conciliation before the Regional Labour Commissioner (Central) Chennai ended in failure. The action of the Respondent/Bank in not absorbing the Petitioner in regular service despite existence of vacancies in Class IV cadre is unjust and illegal and contrary to the provisions of Industrial Disputes Act. The bank ought to have given preference to the Petitioner before inducting fresh hands and hence, the termination is also contrary to clause 20.12 of the Bipartite Settlement. Hence, it is prayed that this Hon'ble Tribunal may be pleased to hold that the termination order dated 31-3-97 as illegal and direct the Respondent/Bank to reinstate the Petitioner in service with back wages, attendant benefits and continuity of service.

3. The averments in the Counter Statement filed by the II Party/Management State Bank of India, Chennai (hereinafter refers to as Respondent) are briefly as follows :—

It is denied that the Petitioner joined the services of the State Bank of India in the year 1987 and was given appointment after interview and medical examination. As revealed in the records, the Petitioner was engaged purely on temporary casual basis on daily wages without semblance of any right on the following days in the Guindy branch at Chennai. Due to exigencies of circumstances and on account of urgent needs, several branches of State Bank of India throughout the country resorted to temporary engagement. Such temporary employees were numerous and were demanding employment. Their cause was

espoused by State Bank of India Staff Federation and it was decided to enter into Settlements bona fide considering that (i) vacancies were limited (ii) temporary employees were much more than the available vacancies, (iii) rights of certain temporary employees who have completed 240 days of continuous work during the period of 12 calendar months, (iv) rights of employees who have worked for less than 240 days during the period of 12 calendar months under Industrial Disputes Act, 1947, (v) and no other practical solution was possible. The management of State Bank of India and All India State Bank of India Staff Federation which is the recognised majority union entered into settlement under section 18(1) of the Industrial Disputes Act, 1947 read with rule 58 of Central Rules on 17-11-1987 which is the first settlement. Subsequent settlement was executed on 16-7-1988 and the next one on 27-10-1988. On 9-1-91 as 4th Settlement and 5th settlement was on 31-7-96. As per the terms of the 1st Settlement waitlist of eligible temporary employees has been drawn strictly as per the length of service and the waitlist was valid upto 31-12-1991 and thereafter it was lapsed. Accordingly, the temporary employees were considered and wait list were drawn and temporary employees were appointed. For want of vacancies 1857 temporary employees who were engaged during 1-7-75 to 31-12-87 could not be appointed. They are all seniors to the Petitioner. As the vacancies were less and temporary employees were more, the claim of daily wages could not be considered. In terms of the Settlement, all the vacancies as on 31-12-94 were ascertained and filled up. So, the claim of the Petitioner over-riding the rights and seniority of other employees cannot be accepted. In any event, since the Petitioner was engaged without verifying the eligibility criteria, suitability for appointment and not against the regular sanctioned vacancies, his engagement itself is per se bad and not valid under law. The Petitioner Mr. Mohan of Chennai Zone is junior to 405 wait listed temporary employees of Chennai Zone, who were not appointed for want of vacancies. The management was constrained not to engage the Petitioner for want of vacancies w.e.f. 31-3-97. The Petitioner who is junior to others could not be appointed as there were no vacancies. He was not engaged beyond 31-3-97, in view of the peculiar facts and circumstances stated earlier. Therefore, the Respondent could not absorb the temporary messengers pursuant to various Bipartite Settlements referred to earlier and therefore, on these reasons, the Respondent has not been in a position to consider for employment to the Petitioner. The averment of the Petitioner that he worked as full time messenger and he actually worked for 492 days from 1-1-92 to 31-12-93 and he was paid wages for Sundays also are denied. The Petitioner is put to strict proof of these allegations. The Petitioner has no right much less any legal right and therefore, there is no question of invoking Section 25F, 25G and 25H of Industrial Disputes Act, 1947. The allegation that the bank has terminated the Petitioner's

service is incorrect and false. There is no question of termination at all, since the Petitioner has no semblance of any right to continue much less to claim any statutory protection or sympathy. Hence, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the claim of the Petitioner.

4. The Petitioner/Workman has filed a reply statement. The averments in the reply statement are briefly as follows :—

The Petitioner had put in a total service of, 1728 days as per the certificates given to him by the Respondent apart from rendering service for about 200 days on petty cash basis. Because of the fact that the Respondent/Bank was following the policy of rotation of temporary employees, the Petitioner could not serve continuously despite existence of vacancy of a messenger post in the bank branch. The non-inclusion of the name of the Petitioner in the wait list does not take away his right to be absorbed in regular service as he was one of the eligible temporary employees interviewed. The fact that the Petitioner having worked as a full time but temporary messenger from 1-1-92 to 31-12-93 aggregating 492 days in all cannot be obliterated. The Petitioner is deemed to have attained permanent status since he had completed more than 480 days of service in a period of 24 calendar months as per the Tamil Nadu Industrial Establishment Conferment of Permanent Status Act. The Petitioner's legal right cannot be denied. The Petitioner is given to understand that the Respondent overlooked the case of the Petitioner and appointed one Madhavan as permanent sweeper at Alandur branch the said Madhavan joined only in the year 1988 as a temporary sweeper. The said action of the Respondent would amount to discrimination. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to hold that the action of the Respondent/Bank in denying employment to the Petitioner w.e.f. 1.4.97 despite existence of vacancies is illegal and unjustified and the Respondent may be directed to reinstate the Petitioner in service with all attendant benefits.

5. When the matter was taken up for enquiry, no one has been examined as a witness on either side. No document has been marked as an exhibit on either side. The learned counsels on either side has advanced their respective arguments.

6. The point for my consideration is —

"Whether the action of the management of State Bank of India, Chennai, in denying employment to Shri D. Mohan with effect from 01-04-1997 is legal and justified? If not, to what relief the said workman is entitled?"

Point :—

This industrial dispute has been raised by the I Party/Workman Sri D. Mohan, challenging the action of the Respondent/Management of State Bank of India, Chennai

in denying him employment w.e.f. 1-4-97. It is the contention of the Petitioner that he had worked for 1682 days from 1987 to 1997 and he was terminated from service on 31-3-97 without any rhyme or reason. It is his further contention that the Branch Manager of Guindy branch of the Respondent/Bank informed him orally on 31-3-97 that his services are not required any more from 1-4-97 and that though he was designated as temporary messenger he worked as full time messenger for the period of 492 days during the period from 1-1-92 to 31-12-93 and the bank ought to have been conferred permanent status as per the provisions of Tamil Nadu Industrial Establishment Conferment of Permanent Status Act, 1981. In reply to the claim of this petition, the Respondent/Bank has contended that as per the terms of the various Settlements in the banking industry between the Trade Unions and the Bank Management, wait list of eligible temporary employees was drawn which is valid upto 31-12-91 and it will lapse thereafter and that accordingly, temporary employees were considered and wait list were drawn and from out of the wait list, the employees were appointed. It is also their contention that for want of vacancies 1,857 temporary employees could not be appointed and those temporary employees were engaged during 1-7-75 to 31-12-87 and are seniors to Petitioner Sri D. Mohan. It is also their contention that as the vacancies were less and the temporary employees were more, the claim of daily wagers like Mr. Mohan could not be considered. As per the settlement terms, all the vacancies as on 31-12-94 were ascertained and filled up and so the claim of Sri D. Mohan over-riding the rights and seniority of other employees cannot be accepted. It is their further contention that the Petitioner was engaged without verifying the eligibility criteria, suitability for appointment and not against regular sanctioned vacancies and hence, the engagement itself is per se bad and not valid under law. It is also contended that the Petitioner Sri D. Mohan of Chennai Zone is junior to 405 waitlisted temporary employees of Chennai Zone, who were not appointed for want of vacancies. So the management was constrained not to engage Sri D. Mohan for want of vacancies with effect from 31-3-97. It is further contended by the Respondent that the Petitioner has no right much less any legal right and there is no question of termination at all to invoke the sections 25F, 25G and 25H of Industrial Disputes Act, 1947. All these contentions of the Respondent/Management have not been denied in the reply statement filed by the Petitioner. To establish the contention made in the Claim Statement as well as in reply statement, the Petitioner has chosen to file some documents into Court stating that those are all the particulars of the period for which he was engaged by the Respondent/Bank branches. All these certificates go to show that he has been engaged as temporary messenger and temporary part-time sweeper and waterman intermittently for various periods. They do not show that the Petitioner has been in continuous employment for more than 240 days. On the

other hand, they show that he has been engaged as temporary messenger on leave vacancies for the Class IV permanent employees in the bank branches. No substantial evidence worth considering has been placed by the Petitioner before this Tribunal to disprove the contention of the Respondent/Management that he had worked for not less than 240 days during the period of 12 calendar months and especially preceding to 31-12-87. As it is seen from the materials available in this case, wait list of the persons employed as temporary messengers till 31-12-1987 was drawn by the Respondent/Management as per the terms of the Bipartite Settlements and the wait list was in operation only upto 31-12-1991 and it got lapsed thereafter. It is also not disputed that the Petitioner was not in service during the period ending with 31-12-87 and the temporary employees who were engaged during 1-7-75 to 31-12-87 were all seniors to Petitioner. The Petitioner has not disputed the contention of the Respondent/Bank that he is junior to 405 wait listed temporary employees of Chennai Zone who were not appointed for want of vacancies. Further the Petitioner has not proved with acceptable evidence that he worked for 492 days from 1-1-92 to 31-12-93 and was paid wages for Sundays also. From the admitted facts available in this case, it is seen that there is no question of termination of the service of the Petitioner by the Respondent/Bank management. So, there is no question of the Petitioner's right to invoke the provisions under Sections 25F, 25G and 25H of the Industrial Disputes Act, 1947. It is the contention of the Petitioner that as per the Tamil Nadu Industrial Establishment Conferment of Permanent Status Act, 1981 he is deemed to have attained permanent status since he had worked as a full time messenger for the period of 492 days from 1-1-91 to 31-12-93 as mentioned earlier, the Petitioner has failed to prove this averment in his Claim Statement with acceptable evidence. It is the definite contention of the counsel for the Respondent/Management that the Conferment of Permanent Status Act is a State Act and does not applicable to the Central Establishment and hence the Petitioner cannot claim that he attained permanent status as per that Act. This contention of the learned counsel for the Respondent/Management cannot be rejected as incorrect. The contention of the Petitioner that the non-inclusion of the Petitioner's name in the wait list does not take away his right to absorb in regular service, as he was one of the eligible temporary employees interviewed, cannot be accepted as correct, in view of the contentions of the Respondent/Management referred to earlier. From the facts available in this case it is seen that the Petitioner was engaged by the Respondent/Bank branches as a temporary messenger as and when the contingency has arisen and he was non-engaged when there is no scope for further engagement or employment of the Petitioner as a temporary messenger. As rightly contended by the learned counsel for the Respondent/Management, the period for which the Petitioner has been engaged by the Respondent/Bank

branches on temporary basis in the leave vacancies cannot give him a right to claim employment in the Respondent/Bank management in a permanent post as reinstatement in service with back wages and attendant benefits. Thus, the point is answered accordingly.

7. In the result, an Award is passed holding that the Petitioner/Workman Sri D. Mohan is not entitled to any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 21st March, 2003.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Exhibited :—

On either side : Nil

नई दिल्ली, 31 मार्च, 2003

का. आ. 1272.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. II, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी-2/10/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2003 को प्राप्त हुआ था।

[सं. एल-41012/51/98-आई. आर.(बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 31st March, 2003

S.O. 1272.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/10/1999) of the Central Government Industrial Tribunal No. II, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Western Railway and their workman, which was received by the Central Government on 28-03-2003.

[No. L-41012/51/98-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT

S. N. Saundarkar, Presiding Officer

Reference No. CGIT-2/10 of 1999

Employers in Relation to the Management of Western Railway

The Divisional Railway Manager (E)
Divisional Office, Western Railway,
Bombay Central, Mumbai -400 008.

AND

Their Workman

Shri Raoji Ugalia C/o L.B. Upadhyaya
30-31, Pragati Shopping Centre,
Deftray, Malad (East),
Mumbai -400 097.

APPEARANCES:

For the Employer : Ms. D. Fernandes
Adv. holding for Mr. Suresh
Kumar

For the Workmen : Mr. Jaiprakash Sawant
Advocate.

Mumbai, dated the 25th February, 2003

AWARD—PART II

By the Interim Award dated 18-1-2002 this Tribunal held that the domestic inquiry conducted against the workman by the management was against the Principles of Natural Justice and the findings recorded by the inquiry officer are perverse. Consequently management was given opportunity to lead evidence to justify its action of termination of services of workman Raoji Ugalia. Workman Ugalia was working as Senior Gangman at Palghar, Dahanu in the year 1990. It is contended workman remained absent unauthorisedly from duty from 10-4-92, therefore he was removed from service w.e.f. 22-12-94 under the service regulations after holding domestic inquiry.

2. Since the domestic inquiry held vitiated as stated above to justify the action of the management of dismissal of workman Senior Section Engineer PW Dahanu Mr. Chaudhari filed affidavit in lieu of Examination in Chief (Exhibit-28) and rebuttal workman filed affidavit (Exhibit-31) and closed evidence vide purshis (Exhibit-32).

3. On hearing the Learned Counsel for both sides and perusing the record and the rulings filed by the management (Exhibit-33). I record my findings on the issues which are to be adjudicated in this Award for the reasons mentioned below :

Issues	Findings
4 Whether the action of the management in terminating the services of Raoji Ugalia is justified?	No.
5 If not, what relief the workman is entitled to?	As per order below

REASONS

4. At the outset it is to be noted that management had conducted domestic inquiry against the workman however the same was held vitiated as Principles of Natural Justice and fair play were not observed, therefore in view of Section 11A of the I.D. Act and in the light of the observations of Hon'ble Apex Court in *Neeta Kapilish Vs. Presiding Officer, Labour Court 1999/CLR 219* this Tribunal

on giving opportunity to lead evidence to prove the charges has to scrutinise the evidence and adjudicate on the basis of such fresh evidence as to whether the action of the management of dismissal of workman is justified.

5. Senior Section Engineer Mr. Chaudhari disclosed that workman had unauthorisedly remained absent for 52 days in the year 1989, 169 days in the years 1990, 167 days in the year 1991 and that since 10-4-92 he remained absent and that he being habitual absentee, management terminated his service w.e.f. 22-12-94. Workman stated that his father died on 22-5-93 and his son on 1-6-93 after prolonged illness and therefore he was very much disturbed and that he had apprised the same to the management. Workman admits in his cross-examination that he was absent during 1989-91 on some occasions and that he did not report to duty from 10-4-92 onwards. This clearly goes to show that workman was absent from duty for a long period from 10-4-92.

6. Now point crops on whether workman had apprised the cause of his absence. Senior Section Engineer Mr. Chaudhari admits in his cross-examination that workman is illiterate, belongs to adivasi community and that he used to get the applications written from the staff members. He is unaware whether workman had informed on the death of his father and the son to the office. Nothing of the sort on record to show that workman had apprised on the death of his son and father to the management. However, fact remains that there was reason for remaining absent from duty but it is crystal clear that his absence was for a long period and consequently it was unauthorised thereby absence has been proved.

7. Now point crops on as to whether for the unauthorised absence as above, punishment of removal is warranted. It is well settled that penalty must be commensurate with the gravity of the offences charged discretion conferred by Section 11A on the Tribunal is to be exercised considering the facts of the case as a whole. At this juncture the Learned Counsel Ms. Fernandes for the management submits that the Industrial adjudicator should be very careful before it interferes with the orders made by the management in discharge of their Managerial functions relying on the decision in *Syndicate Bank Ltd. Vs. Its Workmen, 1966 ILLJ pg. 440*. Their Lordships of Supreme Court in *State of Punjab & Ors. Vs. Ram Singh Ex-Constable, 1992 (4) SCC 54, page. 59* ruled "even a single act of misconduct if found to be of gravest nature warrants dismissal". From the catena of Judgments it is clear that penalty should not be vindictive or unruly harsh. It should not be disproportionate to the offence to shock the conscious and amounts in itself to conclusive evidence of bias. The Learned Counsel Mr. Sawant inviting attention of this Tribunal to the evidence on record urged that workman comes from poor family, belongs to adivasi community, suffered a lot for illiteracy, depriving him from service since April' 92 was sufficient punishment and no other punishment is required. Considering the the position that workman was away from duty and without pay due to prolonged illness of his family members and thereafter on account of death of his father and son for his proved absence from duty, punishment of dismissal is certainly

too harsh and disproportionate. Since there is no adverse in the past record, justice demands to reinstate him in service however without back wages. In this context action of the management in terminating the services of workman is unjustified and consequently management will have to be directed to reinstate him in service without any back wages. Issues are therefore, answered accordingly and hence the order :—

ORDER

The action of the management of Western Railway in terminating the services Shri Raoji Ugalia is totally unjustified and management is directed to reinstate him in service without back wages.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 31 मार्च, 2003

का. आ. 1273.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलौर के पंचाट (संदर्भ संख्या 46/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2003 को प्राप्त हुआ था।

[सं. एल-12012/142/2001-आई. आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 31st March, 2003

S.O. 1273.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. of the Central Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The General Manager, (P) and their workman, which was received by the Central Government on 28-03-2003.

[No. L-12012/142/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT "SHRAM SADAN"

III MAIN, III CROSS, II PHASE, TUMKUR ROAD,
YESHWANTHPUR, BANGALORE.

Dated the 24th March, 2003

PRESENT

HON'BLE SHRI V.N. KULKARNI, B.COM, LL.B.

PRESIDING OFFICER

CGIT-CUM-LABOUR COURT,
BANGALORE.

C.R. No. 46/2002

I PARTY

Shri S.S. Deshpande,
S/o Shri Shama Rao
Deshpande,
C/o. R.H. Guttal,
Plot No. 7,
'Pavamana'
Indira Colony,
Keshavapur,
Hubli-580 023.

II PARTY

The General Manager (P),
Syndicate Bank,
Head Office,
Manipal-576119
(Karnataka).

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/142/2001-IR(B-II) dated 21st August, 2002 for adjudication on the following Schedule :

SCHEDULE

"Whether the action of the management of Syndicate Bank is justified in dismissing the services of Shri S.S. Deshpande, Clerk, w.e.f. 23-12-1998 on the grounds of doing acts prejudicial to the interest of the bank under Clause No. 19.5 (i) of Bipartite Settlement? If not, what relief the said workman is entitled.

2. The first party workman was working with the Second Party Management. Management gave charge sheet and held enquiry against the workman. On the basis of the report of the Enquiry Officer, the workman is dismissed and therefore, Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. In order to dispose of this dispute few facts are necessary and they are as under :—

5. The first party workman joined the services of the bank on 3-4-1981 as an Attender and subsequently he was promoted as Clerk. He served the bank till his dismissal on 23-12-1998 while working at the Kittur Branch of Belgaum district.

6. It is the further case that while he was serving the management used to get more customers to the Branch. He got his friend Shri F.H. Baghwan and his wife as customers of the second party bank and used to give his friendly services to them also. Charge sheet was issued but the same is not correct. Enquiry is not fair and proper. In the enquiry except the interested person that is the Investigating Officer at whose instance the enquiry was ordered, no independent person was examined in support of the charge sheet whereas the complainant himself deposed to the effect that such a complaint was made on misunderstanding of the facts and circumstances. The first party has not committed any misconduct. No handwriting expert was examined and findings of the Enquiry Officer is perverse. The letter dated 20-5-97 is not in his handwriting and is obtained by the Investigating Officer himself at his dictation by making the customer to believe that his complaint has been withdrawn without understanding the implications and facts altogether by the said customer.

7. It is his further case that MEX-15 is the complaint on the basis of which the wrested charge sheet has been framed and the MEX-15 says that Shri F.H. Baghwan, the customer gave cheque on 7-8-1996 for Rs. 6,092/- to credit to his account. Further says that only Rs. 3,090/- has been credited and as such an enquiry may be held. In fact no cheque was given to any one on 7-8-1996 for Rs. 6,092/-. It is not said that the said cheque was handed over to the first party by him. But the charge sheet presumes that the said customer has handed over the said cheque to first party on 6-8-1996 and the first party got encashed the same and deposited in the customers account a sum of Rs. 3090/- only on 24-8-1996.

8. It is his further case that on 6-8-1998 VCC standing in the name of Mrs. Noorjahan Bhagwan (MEX-6) matured, and the proceeds were credited to S.B. A/c No. 8984 vide MEX-7 on the same day vide MEX-8 she withdrew Rs. 6,090. On 24-8-1996 Mrs. Bhagwan came of the branch for crediting the amount to her husband's account No. 2971. She deposited Rs. 3090/- vide MEX-11 and the relative credit slip was prepared by me but it was signed by Mrs. Bhagwan.

9. It is seen from the records that in the Claim Statement evidence of WW1 is narrated. So also the evidence of WW2 is narrated and it is contended that the Enquiry Officer has ignored the vital facts and solely depending upon the version submitted by the Investigating Officer gave his findings, which is perverse. The action of the management is not correct. Complainant was not examined by the management. In fact the workman examined Mr. Bhagwan.

10. It is the further case of the workman that on account of misunderstanding Mr. Bhagwan gave complaint and also gave in writing that he has no complaint against the workman.

11. It is his further case that the workman is suffering lot and he is having wife and two children and at present he has no income and his survival is difficult. The punishment imposed is disproportionate and harsh. Workman has not committed any act prejudicial to the interest of the Second Party Bank under Clause No. 19.5 (i) of the Bipartite Settlement. Workman for these reasons and for some other reasons has prayed to pass award in his favour with all benefits.

12. As against this the, case of the management in brief is as follows :

13. The management has filed very lengthy counter. The case of the management is that charge sheet was issued to the workman. Workman has committed misconduct. Workman has failed to deposit the amount to the account of the Customer. He credited Rs. 3090/- on 24-8-1996 and the balance of Rs. 3000/- on 31-8-1996 that too when the customer complained against him and the workman has committed misconduct by misappropriating the amount of the Customer. It was to be deposited in the bank.

14. Regarding enquiry it is said the enquiry is fair and proper and all the allegations made by the workman are not correct. The contention of the workman that the

customer has specifically withdrawn the complaint on 30-6-97 and that first party introduced the said complainant as Defence Witness No.2 and there is no merit in this contention. The workman himself had prepared the credit slips for Rs. 3090 on 24-8-96 and for Rs. 3000/- on 31-8-1996 instead of crediting the entire amount on 6-8-96 itself to the customers SB A/c No. 2971. He has failed to pay the amount and misappropriated the amount. Documentary evidence is sufficient to prove the charges.

15. The Enquiry Officer has considered the evidence and documents and has come to the right conclusion. Enquiry is fair and proper. The extracts of deposition of DW-1 and DW-2 quoted cannot be spoken of independently and out of context. The Enquiry Officer has rightly appreciated the evidence. The Enquiry Officer has not ignored any material placed before him. Action taken by the management is correct. Punishment is proper. Management for these reasons and for some other reasons has prayed to reject the reference.

16. It is seen from the records that the management examined MW1, Shri Koragappa who conducted enquiry against the workman.

17. Against this workman got examined himself as WW1.

18. This Tribunal by its order dated 17th February, 2003 has answered Preliminary Issue holding that the Domestic Enquiry is fair and proper. Thereafter the matter was posted for arguments. I have heard both sides in details. I have considered the entire material before me. I have read the following decisions cited by the management :

- (1) 2001(I)LLJ 1330(SC)
- (2) 2000(II)LLJ 1395(SC)
- (3) 1995(I)LLJKar (DB)=1995(I)LLJ 233(SB)
- (4) AIR 1998 SC 2311=1998 Lab IC 2514
- (5) 1987 Lab. IC. 77
- (6) AIR 1997 SC 2661
- (7) AIR 2000 SC 3028
- (8) 2000(II)LLJ 1367 (Kar)
- (9) 1999(II)LLJ 155
- (10) JT 2000(10)SC 228
- (11) AIR 1988 SC 1309
- (12) 2003(1)Kar. L.J. 351(DB)
- (13) 2000(2)LLJ Kar 667

19. Decisions relied by the learned counsel appearing for the management are mostly in respect of powers of this Tribunal under Section 11 A of the ID Act. In most of the cases relied by him, misappropriation is proved and the findings of the Enquiry Officer is held as proper and correct.

20. Now that the Preliminary Issue is answered, holding that the Domestic Enquiry is fair and proper, we

will have to see whether the findings given by the Enquiry Officer is correct or the same is perverse. Further we have to see whether the findings given by the Enquiry Officer is based on the evidence and documents placed before him and he has properly appreciated the evidence and documents.

21. At the very outset I am of the opinion that in the instant case the Enquiry Officer has not considered the evidence properly and he has not appreciated the material before him. Properly there is not an iota of evidence to prove that the complainant has given cheque directly in the hands of the first party workman. On the other hand Mr. Bhagwan has given in writing that because of misunderstanding he gave complaint and he has requested not to proceed with the same.

22. It is in evidence that the wife of Mr. Bhagwan who was the customer, Smt. Noorjahan Bhagwan has withdrawn the entire amount of Rs. 6090/- on 6-8-1996 itself. All this is not properly appreciated and considered by the Enquiry Officer. It was argued by the learned counsel appearing for the workman that in the instant case except the evidence of Investigating Officer there is no other direct evidence to connect the workman for proving misappropriation.

23. He further submitted that Manager of the Bank and one Mr. Madhukar whose letter is relied by the Enquiry Officer are not examined by the management.

24. In the instant case one more circumstances which goes in favour of the workman is that the management failed to examine Mr. Bhagwan and the same Bhagwan is examined by the workman. All this would go to show that the evidence of the Investigating Officer itself is not sufficient to prove the entrustment of cheque to the workman and further there is no direct evidence to prove the alleged misconduct.

25. It was argued by the learned counsel appearing for the management that in the instant case the fact that the workman has deposited amount of Rs. 3000 and 3090 on two occasions by writing slips in his handwriting and his admissions before the Enquiry Officer is sufficient to prove the misconduct and the charges levelled against him.

26. At the very outset I am of the opinion that there is no merit in this argument because the very fact of entrustment of cheque to the workman by Mr. Bhagwan is not proved and on the other hand on the relevant date as per the material before us Mr. Bhagwan was undergoing training at Mysore. All this is not properly appreciated by the Enquiry Officer. Mr. Bhagwan himself has stated before the Enquiry Officer that his wife encashed the VCC and taken the money and the relevant time he had gone to Mysore for training. What more material is required to say that the version of the management that cheque in question was handed over to the workman is incorrect. Mr. Bhagwan has further stated that when he enquired with his wife at his house, she told him that the amount was required to meet the daily expenses and she did not like to go to the bank to withdraw the amount now and then and therefore, she had withdrawn the proceeds of the VCC. With this

cross examination it is clear that there is no misappropriation at all.

27. I have carefully read the enquiry report and I am of the opinion that the Enquiry Officer has not discussed this aspect at all. He has only discussed with the evidence of the Investigating Officer and the evidence of the Investigating Officer is mostly hear say evidence.

28. The fact that slips are written by the workman will not prove anything against him and that will not help the management to prove misappropriation.

29. It was argued by the learned counsel appearing for the workman that it is quite natural that when a customer comes to bank and ask the official to write slip and counterfoil etc. the officials are expected to oblige and that is what the workman has done in this case. In the given circumstances this seems to be very natural.

30. It was argued by the learned counsel appearing for the management that signature on the slip is not of Smt. Bhagwan. If this is to be believed, there is no explanation from the management as to why those signature were not sent to handwriting expert and therefore, I am of the opinion that the circumstances relied by the management are not sufficient to prove the misappropriation and misconduct. Mr. Bhagwan has said in his cross-examination that he had given the complaint without enquiring with his wife. The material placed before the Enquiry Officer is not sufficient to prove the charges.

31. The Enquiry Officer has not properly appreciated the evidence of DW2 at all and has failed to consider the relevant document, and therefore the findings is perverse.

32. I have carefully scrutinized the documents relied by the management and I am of the opinion that these documents directly do not involve the workman to engage with the charges and prove misappropriation. Ex. MEX-15, 16 and 17 are not properly appreciated by the Enquiry Officer. So also the Enquiry Officer has failed to appreciate and consider MEX-18 and 18(2) and has come to the conclusion without any cogent and clear evidence.

33. There is no explanation as to why Mr. Madhukar is not examined. Letter alleged to have been given by Mr. Madhukar is not properly appreciated by the Enquiry Officer. The findings of the Enquiry Officer that the evidence of DW2 is not acceptable for the reasons that documentary evidence of MEX-15, 16, 17 and oral evidence of MW1 is sufficient to say that Mr. Bhagwan handed over cheque to the workmen. His findings is perverse.

34. I have already said that there is no evidence to prove that Mr. Bhagwan has handed over cheque to the workman. I have also said that Mr. Bhagwan on the relevant date was in Mysore and the charges are not proved. The findings of the Enquiry Officer that in view of the answer given by him on issue No. 1, 2 and 3 are also proved cannot be acceptable at all. He has not properly appreciated the documentary and oral evidence. In view of these facts I am constrained to hold that the enquiry is perverse.

35. I have read all the decisions relied by the management carefully. Management in order to take the benefits of all the decisions has to prove misappropriation and has to establish that the findings given by the Enquiry Officer is correct and there is no perversity in the findings.

36. In the instant case when the findings of Enquiry Officer is perverse, I am of the opinion that the management cannot take the benefit of the decisions relied by it. Facts of the case on hand are quite different from the facts of the above decisions. Mostly in all the decisions it is held that if the misappropriation is proved labour court has erred in setting aside the dismissal of the workman.

37. In the instant case misappropriation is not proved and it is held that the findings given by the Enquiry Officer is perverse and therefore, this Tribunal is of the opinion that the punishment imposed is not correct and this is a fit case to interfere with the punishment.

38. It was argued by the learned counsel appearing for the management that the dispute referred is as per the said rule by the Competent Authority is that the misconduct alleged against the workman is in respect of doing any acts prejudicial to the interest of the bank under clause No. 19.5 (i) of Bipartite Settlement but the chargesheet given by the management is under Clause 19.5(i) and therefore, the reference is not maintainable.

39. It appears that it is a typing mistake and therefore, this does not go to the route of the maintainability of the dispute and there is no merit in this contention. I have given best consideration to the material before me and I am of the opinion that the findings given by the Enquiry Officer is not fair and the same is perverse. Accordingly I proceed to pass the following Order :

ORDER

The reference is allowed. Punishment of dismissal is set aside and the management is directed to reinstate the workman to his original post which he held at the time of dismissal with continuity of service and full back wages. Accordingly reference is disposed off.

(Dictated to PA, transcribed by her, corrected and signed by me on 24th March 2003).

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 1 अप्रैल, 2003

का. आ. 1274.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवर इण्डिया लि. के प्रबंधतांत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-I, मुम्बई के पंचाट (संदर्भ संख्या 24/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2003 को प्राप्त हुआ था।

[सं. एल-20030/11/95-आई. आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 1st April, 2003

S.O. 1274.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/96) of the Central Government Industrial Tribunal-I, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Air India Ltd. and their workman, which was received by the Central Government on 28-03-2003.

[No. L-20030/11/95-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT

Shri Justice S. C. Pandey, Presiding Officer

REFERENCE NO. CGIT-24/1996

PARTIES:

Employers in relation to the management of Air India Ltd.

And

Their Workmen

APPEARANCES :

For the Management : Mrs. Paralkar, Adv.

For the Workman : Ms. K. N. Samant, Adv.

State : Maharashtra

Mumbai, dated the 25th day of February, 2003

AWARD

1. This is a reference made by the Central Government in exercise of its powers conferred by clause (d) of Section 10(1) read with Sub-section 2-A of the Industrial Disputes Act (the Act for short). The schedule of the order of reference gives the terms of reference as follows:

“Whether the action of the management of Air India Ltd. is justified in imposing the punishment of Four days suspension on Shri N. B. Kadam, Senior A/Technician (Staff No.3060)? If not, to what relief is the said workman entitled?”

2. The undisputed facts of this case are that Shri N. B. Kadam (the workman for short) was employed as Senior Aircraft Technician with the Air India Ltd. (the company for short). He was given a charge sheet dated January 19, 1989 under the Air India Employees Regulation for :

(a) Wilful insubordination and disobedience of reasonable and lawful order of his superiors.

(b) Commission of Act subversive of discipline.

It was alleged against the workman that on 28-11-1988 at about 10 AM, he disobeyed the orders of S. D. Shrikar, the Foreman asking him to replace the heli coil on exhaust case in JT 9D Module section. On the report of refusal, the workman was

required by D. T. Tatke, the Asstt. Engineering Manager, to do the job but he again refused to do so. It is not in dispute that after service of charge-sheet the workman gave his reply, which found to be unsatisfactory by the competent disciplinary authority. Accordingly, an enquiry was ordered. A committee was appointed for this purpose. The enquiry commenced on 01-5-1989 and ended on 21-6-1989. The enquiry report went against the workman. Thereafter, the competent disciplinary authority passed the order dated 29-5-1990 imposing the punishment of loss of pay and allowance of 4 working days.

3. An industrial dispute was raised by the Air India Employees Corporation Union, Bombay Airport, Santacruz (East), Bombay before the Conciliation Officer. On failure of conciliation, the matter was reported to the Central Government. The Central Govt. has now referred the dispute to this Tribunal.

4. In his statement of claim, the union had stated that *inter alia* the workman was not permitted to be defended by the employee of the Air India who was the Secretary of the trade union. It was pleaded further, that after reading out the charges, the enquiry committee did not explain the charges. It also did not explain the procedure of enquiry. It was stated that the Convenor and the Enquiry Officer both jointly led evidence against the workman. The enquiry report was submitted by both. It was further pleaded that workman was not reasonable opportunity to defend himself because the proceedings recorded on 05-1-1989, 20-6-1989 and 21-6-1989 were given to workman on the next date of appearance i.e. 20-6-1989, 21-6-1989 and 26-6-1989 respectively. It was pleaded that findings were perverse.

5. The company took the stand that the allegations made by the Union are false to its knowledge. There was denial of principles of natural justice. The findings are based on evidence on record and are not perverse.

6. The following points arise for consideration at this stage of preliminary issues:

- Whether the workman was given reasonable opportunity of hearing in the enquiry held against him?
- Whether the findings of facts are perverse or otherwise liable to be interfered with in exercise powers under section 11-A of the Act?
- What would be the Consequential order?

7. The workman filed his affidavit by way of examination-in-chief. He was cross-examined on behalf of the company. No person was examined on behalf of the company.

8. Having heard the counsel for the parties, this Tribunal has come to the conclusion that the reference made to this Tribunal cannot be accepted. The main point

taken on behalf of the workman was that the enquiry officer did not permit the workman to be defended by employee of company who was Secretary of the Union. This was so done because the rule was interpreted erroneously that a person is entitled to be defended by employee of the department where the employee worked. It was argued that as per unchallenged affidavit of the workman the enquiry committee denied the representation of a workman by a person from a different department. The argument advanced on behalf of the workman has no force in view of clause 7 of Schedule II which has been made under regulation 4. It reads as under :

“7. The employee charged should be informed in writing of the date and time when the enquiry will be held and be asked to attend, and further informed that if he fails to attend the enquiry or attending it refuses to take part in it the enquiry will proceed ex parte. He should be also informed that at such enquiry he shall be entitled to be defended by an employee of the Department in which he works, except in the case of Outstations where he may be defended by any employee of the Corporation employed at that Outstation.”

No prejudice was caused to the workman because he could get any person from his department to defend himself. On the other hand he insisted that he would be defended by Hemant Kumar alone. This was a simple case on facts. No complicated questions of law were involved. The workman could defend himself. In his affidavit, he has not stated that he did not get a friend from his department.

9. There is also no merit in the contention that workman was in any way prejudiced by supply of the order sheet; on next hearing. The workman in his affidavit has not spelled out any prejudice. There is also no merit in the argument that workman was prejudiced by the procedure adopted during the enquiry. There was no justification for producing consent of Mr. Agarwal on 26-6-1989, when the proceedings were closed on 21-6-1989.

10. This Tribunal has examined the enquiry report. It does not find that finding is perverse in the sense that is not based on any legal evidence on record or that no reasonable man would have reached the same conclusion as shown in the enquiry report on the basis of facts. Even otherwise, in exercise of powers under section 11-A, this Tribunal has jurisdiction and power to examine the entire record of enquiry in order to find out if any grave injustice was done to the workman. The Tribunal does not find any infirmity which compels it to interfere with the findings made in the enquiry report. It also does not find that punishment was in any way improper.

11. This Tribunal holds that the management of the Air India Ltd. was justified in imposing the punishment of four day suspension on the workman N. B. Kadam. He is entitled to no relief. Accordingly, this reference is answered. No costs.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 1 अप्रैल, 2003

का. आ. 1275.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल इंस्यूरेन्स कं. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अम्ब न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 739/2001 को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-4-2003 को प्राप्त हुआ था)।

[सं. एल-17012/29/2001-आई. आर. (बी. II)]

स्त्री. गंगाधरण, अवर सचिव

New Delhi, the 1st April, 2003

S.O. 1275.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 739/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of National Insurance Co. Ltd. and their workman, received by the Central Government on 01-04-2003.

[No. L-17012/29/2001-JR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 27th March, 2003

Present : K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 739/2001

In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri G. Ramarao and the Management of National Insurance Co. Ltd.]

BETWEEN

(G. Ramarao : I Party/ Workman

AND

— Assistant General Manager, : II Party/Management
National Insurance Co. Ltd,
Chennai.

Appearance:

For the Workman : M/s. J. Soundari Chandrasekar
Advocates

For the Management : M/s T.S. Gopalan and Co.
Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned industrial dispute for

adjudication vide Order No. L-17012/29/2001/IR (B-II) dated 31-10-2001.

On receipt of the order of reference from the Government of India, Ministry of Labour, this case has been taken on file as I.D. No. 739/2001 and notices were sent to the parties to the dispute by registered post, with a direction to appear before this Tribunal on 18-12-2001 to file their respective Claim Statement and Counter Statement and to prosecute this case further. Accordingly, the learned counsel on record on either side have filed their respective claim statement and counter statement and prosecuted this case further.

Upon perusing the Claim Statement, Counter Statement, the reply statement filed by the I Party/Workman, the oral and documentary evidence let in on either side, the other material papers on record, the written arguments filed by the learned counsel for the I Party/Workman, after hearing the arguments advanced by the learned counsel for the II Party/Management and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the action of the management of National Insurance Co. Ltd., Chennai in terminating the services of the workman Shri G. Ramarao w.e.f. 08-02-1999 is justified? If not what relief the concerned workman is entitled to?”

2. The averments in the Claim Statement filed by the I Party/Workman Sri G. Ramarao (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner entered service under the II Party/Management National Insurance Co. Ltd. Chennai, as a Caretaker at their guesthouse at No. 166A, Greams Road, Thousand Lights, Chennai, on 2-11-1983. He was carrying on his work faithfully, efficiently and to the satisfaction of his superiors. He had continuously worked under the II Party/Management for the past 17 years and his service was a meritorious one. His nature of work was to cook and to serve the company's guest, to allot them rooms and to collect the room rent from the guest etc. He stayed in the servant quarters along with his family. He insisted the II Party/Management to regularise his service and to extend the benefits like bonus, P.F. etc. by a letter dated 20-12-1994 and 28-3-1998. This infuriated the II Party/Management and they determined to terminate the services of the Petitioner by hook or crook. Meanwhile the Petitioner came to know that the II Party/Management is trying to evict him from the quarter without any reason. Hence, the Petitioner filed an Original Suit before the City Civil Court, Chennai as O.S. No. 517/99. So the Petitioner was terminated from service on 8-2-1999. Before terminating the Petitioner

from service, the II Party/Management has not given him any notice nor paid any compensation. It amounts to retrenchment and is in violation of Section 25F/25N of Industrial Disputes Act, 1947. His juniors E.Balaiya, Gardener, M.Soulaiah, Sweeper are still continuing in service and it is in violation of Section 25G of the Industrial Disputes Act, 1947. The II Party/Management have recruited fresh hands after retrenching the Petitioner and it is in violation of Section 25H of Industrial Disputes Act. Before terminating the Petitioner from service, no charge-sheet was issued and no enquiry was conducted. It is in violation of principles of natural justice, standing order and the provisions of Industrial Disputes Act. The termination of the services of the Petitioner by the II Party/Management is unjust, improper and illegal. The Petitioner used to work round the clock. He sent a lawyer notice dated 3-4-2000. The II Party/Management gave a reply for the same on 20-4-2000. So left with no other alternative, the Petitioner has raised this industrial dispute after the effort taken by the conciliating authority ended in a failure. Hence, it is prayed that this Hon'ble Tribunal may be pleased to hold that the termination of the services of the Petitioner by the II Party/Management w.e.f. 8-2-1999 is unjustified and direct the II Party/Management to reinstate the Petitioner in service with back wages, continuity of service and all other attendant benefits.

3. The averments in the Counter Statement filed by the II Party/National Insurance Co. Ltd., Chennai (hereinafter refers to as Respondent) are briefly as follows :—

The guest house of the Respondent is provided with a security guard, sweeper and a gardener. The house keeping of the guest house is entrusted to an outside agency who will not only act as a caretaker by living in the quarters attached to the guest house, but to take care of the needs of the guests who may occupy the guest house. He is responsible for providing accommodation to the guests, attending to change of bed linens, soaps etc. making arrangements for washing and ironing of clothes of guests, providing tea/coffee, breakfast, lunch, dinner and such refreshments at the rates prescribed by the company and to generally attend on the guests. He should attend to house keeping and maintenance of the guest house in good order. He should collect the prescribed lodging charges from the guests and remit it to the company. The Petitioner was engaged as caretaker of the guest house and the terms of the agreement were governed by the agreement dated 19-11-1987. He had no fixed working hours as he was required to work under the direct supervision and control of any of the officers of the company. He was not borne on the rolls of the Respondent establishment. He was never treated as an employee of the company. As such, the Petitioner was not a workman within the meaning of Section 2(s) of the Industrial Disputes Act. Consequently, he cannot invoke Section 2A of the Industrial Disputes Act. Therefore, the present dispute is

not maintainable in law. Since 1994 there were numerous complaints that the Petitioner was always in drunken mood, never used to make himself available and never attended to the needs of the guests. Having received a number of complaints regarding the unruly and drunken behavior of the Petitioner, Mr. A.N. Baskar Administrative Officer and Mr. E.M. Krishnamurthi, Assistant Manager of the Madras Regional Office made surprise visit to the guest house at 3-00 pm on 1-7-94 and they found the Petitioner in a fully drunken state. In fact, on that day the Senior Divisional Manager of Madras Divisional Office I of the Respondent was to hold a meeting with the officials of the Neyveli Lignite Corporation at 4.00 pm in the guest house and as the Petitioner was in a drunken state, he was confined to his quarters. Within a short time, the Petitioner broke open the latch of the door and came out. As he was fully drunk, he could not understand the warnings of officials. Fortunately, the meeting that was to be held at the premises at 4.00 pm was cancelled. On 5-7-94 the officials made a report about the behavior of the Petitioner with the Assistant General Manager. On the night of 23-6-95 Mr. Tiwari the then Govt. nominee Director of the Respondent company checked into the guest house and he stayed there the next day also. The Petitioner did not take care of Mr. Tiwari during his stay on 23rd and 24th June, 1995. Mr. Tiwari had to carry the luggage himself to his room. This was reported to Chairman-cum-Managing Director of the Respondent company from the Madras Regional Office. When the Madras Regional office came to know about this on 25th June, 1995 at about 3-30 pm Mr. K.Panduranga Rao, the then Manager and Mr. A.N. Baskar, Administrative Officer went to the guest house to make enquiry. They found the Petitioner sleeping in the guest house at that time. When he was woken up he was unable to even stand properly and when the officials put questions about his failure to provide care and assistance to Mr. Tiwari, the Petitioner could not give any reply. He was under the heavy influence of liquor. In fact, the Assistant General Manager gave instructions to the Petitioner that as soon as the breakfast was ready on 24-6-95 it should be informed to him, so that he and Mr. Tiwari could have breakfast together. But till 9-30 am on that day neither breakfast was served to Mr. Tiwari nor message was given to the Assistant General Manager. On 26-6-95 when Mr. Ravisankar, Assistant Manager and Mr. A.N. Baskar, Administrative Officer had been to the guest house to find out the occupancy position, they found the Petitioner was fast asleep and even when he woke up, he could not answer any of the questions put to him, as he was under the influence of alcohol. On 27-6-95 a memo was issued to the Petitioner pointing out his lapses on 1-7-94 as well as from 23-6-95 to 26-6-95. The Petitioner gave a reply. The Petitioner gave a reply dated 7-7-95 admitting his lapses pleading for mercy and requested the Respondent/Management to permit him to continue to function as caretaker. On 5-7-95 at about 13.15 hours Mr. T.Benjamin, Administrative Officer

received information that the Petitioner was lying in an inebriated state near cash counter in the State Bank of Hyderabad, 14 Whites Road. When the official visited the scene he was found lying in the middle of the floor in the bank. He had to make arrangements to remove the Petitioner to the guest house by an auto. This was placed on record by a note dated 7-9-95. On 18-9-95 the Petitioner had left the guest house at about 10.00 hours without any intimation and he was not seen for over 24 hours. On 19-9-95 Mr. V. Ravisankar, Assistant Manager went to the guest house and even at that time, the Petitioner had not returned. The guests who stayed in the guest house informed Mr. Ravisankar that the Petitioner was not at all available to serve them coffee or refreshments even from 17-9-95. The Petitioner returned only by 12.00 noon on 19-9-95. After his return, Mr. Ravisankar along with Mr. D. Ravi Assistant Administrative Officer rushed to the guest house and questioned him about his whereabouts in the previous 24 hours. They observed that his dress was dirty, trousers were torn, body was pasted with cow dung and mud suggesting that he was lying somewhere in open. On the evening of 19-9-95 when Mr. Kannan, Deputy Manager and Mr. Ram Prasad, Senior Divisional Manager of Madras Divisional Office, were in the guest house to receive Mr. P.C. Ghosh, Assistant General Manager from Kolkatta, the Petitioner was not available to serve the guest and on enquiry they found that he was fully drunk and lying in the quarters. Even on 20-9-95 one Mr. Ravishankar and Mr. D. Ravi, officers visited the guest house he was found in a similar condition. On 24-9-95 Mr. Dakshinamoorthy, a security staff who had gone to the guesthouse to pick up some personal papers found that the Petitioner was lying flat in the kitchen floor and he was stinking with alcohol smell. He had vomited and also urinated in the same posture. Mr. Ravisankar, Assistant Manager and Mr. Baskar, Administrative Officer visited the guest house and found that the whole area was stinking with urine and vomit. The Petitioner was found fully drunk. This was also placed on record by a note dated 25-9-95. On 1-9-97 the Petitioner had locked himself inside Room No.5 of the guest house. After officials knocked the door for a long time, the Petitioner came out in a complete drunken state. This was placed on record by a note signed by Mr. Baskar and Mr. K. Narayanan and Mr. V. Ravisankar. On 5-9-97 when Mr. Ravisankar, Assistant Manager visited the guest house by a surprise inspection at 7.30 pm, he was shocked to see the Petitioner in a completely drunken state. He had vomited and urinated in the sofa sets, curtains and divans of the reception hall. Mr. V. Ravi Shankar and Mr. P.K. V. Pillai officers made a report about it on 11-9-97. On 22-1-98 at about 12.00 noon one Mr. Ravisankar, Mr. A.N. Baskar and Mr. V. Ramamoorthy visited the guest house, they found the Petitioner in a drunken state in the main hall of the guest house. On 24-1-98 when Mr. T.V. Viswanathan, Assistant General Manager, visited the guest house to call on Mr. G.C. Bhattacharya former Chairman-cum-Managing

Director of the company, he found the Petitioner lying unconscious in the main hall and his efforts to wake him up was of no avail. Mr. Bhattacharya also complained that the Petitioner's services were not available to him. On 13-2-98 a memo was issued to him making reference to the above incidents and warning him that if he continued to behave in this fashion, drastic action would be taken against him. By a letter dated 17-2-98 the Petitioner expressed regret and apology for his behavior on 22-1-98 and 24-1-98. On 23-11-98 and 24-11-98 when Mr. Ravisankar, Assistant Manager and Mr. A.N. Baskar, Administrative Officer visited the guest house, they found that the Petitioner was fully drunk and that he could neither perform his duties nor was in a position to answer any of the queries put to him by the officials. On 10-12-98 a final warning letter was issued to the Petitioner referring to his drunken state on 23-11-98 and 24-11-98 and he was cautioned that if he continued to behave in that fashion, the agreement would be put an end to. Mr. Apu Mandal, Administrative Officer, Head Office was staying in the guest house during 27-12-98 to 31-12-98. On 27-12-98 the Petitioner quarrelled with his wife bet her and created a scene in the main hall of the guest house and he was also drunk. When Mr. Apu Mandal tried to intervene, the Petitioner abused him. Thereafter he reported the matter to Mr. Ravishankar, Assistant Manager. Then he visited the guest house on next day i.e. 28-12-98 they found the Petitioner fully drunk again. Thus, it became evident that the Petitioner was not only an alcoholic but he seldom makes his services available to the guests. In the circumstances, on 8-2-99 Respondent was obliged to terminate the contract as warning letters issued to him had no effect. The termination of the contract of the Petitioner as a caretaker is perfectly justified and valid in law. As the Petitioner was not in the employ of the Respondent, there was no question of termination of employment. Even assuming without admitting that the Petitioner is held to be employed on the services of the Respondent, the termination on 8-2-99 was for acts of misconduct and therefore, the said termination should not be interfered. In any event, having regard to the conduct of the Petitioner as disclosed by various reports from 1995 and 1998, the Petitioner has forfeited his claim to serve as a caretaker. The Petitioner should not therefore, be considered for any relief much less restoration to his status as a caretaker. The Petitioner was allowed to occupy the quarters only as an licensee and therefore, the Respondent was entitled to demand the Petitioner to vacate his quarters once the licence was put an end to. The Petitioner was not in employment of the Respondent. In any event, the alleged termination would not amount to retrenchment. Hence, it is prayed that this Hon'ble Tribunal may be pleased to reject the claim of the Petitioner.

4. The Petitioner has filed a reply statement. The averments in the reply statement are briefly as follows:—

The guests who stay in the guest house are the higher officials of the Respondent. The Petitioner has been working with the Respondent from the year 1983, whereas the agreement was entered only in the year 1987. The Petitioner was the employee of the Respondent and the agreement was nothing to do here. The last drawn salary was Rs.4080/- per month and the salary was paid on par with the sub-staff of the Respondent. On 19-11-87 the agreement was given to the Petitioner. The Deputy Manager (Personnel) Mr. S.Sethuraman threatened the Petitioner to sign the same or he will be terminated from the service. So the Petitioner left without other alternative signed the agreement dated 19-11-1987. The Petitioner has not committed any misconduct during his service. Even assuming without admitting that he has committed a misconduct, the usual procedure is to conduct an enquiry and then to terminate the Petitioner from service. Hence, it is prayed that the termination of the service of the Petitioner is unjust and improper. The Respondent may be directed to reinstate the Petitioner in service with back wages and continuity of service.

5. When the matter was taken up for enquiry, the Petitioner has examined himself as WW1. During the course of the cross-examination, when the Petitioner was put some questions in respect of the signatures contained in the documents shown to him as that of his signature, he denied them as it is not his signature. Hence, steps were taken by Respondent/Management to send the disputed as well as admitted signatures to the handwriting expert for his opinion and report. On receipt of the report from handwriting expert the cross-examination of the Petitioner as WW1 was continued and the report of the handwriting expert has been marked as Ex.C1. After the conclusion of the examination of the Petitioner as WW1 the management has examined one Mr. Ravi Shankar, then Assistant Manager in the Establishment Department of the Respondent/Management at Chennai as MW1. 14 documents were marked as Ex.W1 to W14 and 20 documents have been marked on the side of the Respondent/Management as Ex.M1 to M20. The learned counsel for the Petitioner has submitted his written arguments. The learned counsel for the Respondent/Management has advanced his oral arguments.

6. The point for my consideration is—

“Whether the action of the management of National Insurance Co.Ltd., Chennai in terminating the services of the workman Shri G.Ramarao w.e.f. 08-02-1999 is justified? If not what relief the concerned workman is entitled to?”

Point:

This industrial dispute has been raised by the Petitioner/Workman Sri G.Ramarao, challenging the action of the II Party/Management, National Insurance Co. Ltd., Chennai, in terminating his services w.e.f. 8-2-1999 as

unjustified. It is admitted that the Petitioner has entered the service as Caretaker of the guest house of the II Party/Management situated at 166A , Greams Road, Thousand Lights, Chennai and he was provided the residential quarters in the guest house compound itself to be there with his family. It is also his admission that he used to provide room for the guests of the Respondent/Management, who used to come to stay in the guest house. The Petitioner as WW1 has admitted in his evidence that apart from providing room service, he used to cook for them and serve them and on their vacating their room, he used to collect room rent from them and deposit the same in the office. Ex.W1 series are the Xerox copies of the challans, counterfoils for his remittance of rent paid by the guests and other telephone charges collected from them. It is his further evidence that he was stopped from service from 8-2-99 , the Respondent/Management gave him a letter dated 8-2-99 terminating him from service and the xerox copy of the same is Ex.M3. Though the Petitioner has alleged in his claim petition and deposed as WW1 that he entered service as Caretaker in the guest house of the II Party/Management, he has not stated as to how he has joined as caretaker in the guest house. The Respondent/Management in their Counter Statement has made an averment that on 8-2-99 the Respondent was obliged to terminate the contract as warning letters issued to the Petitioner had no effect. In Ex.M3 the Respondent/Management has clearly stated that an agreement dated 19-11-1987 has been entered into with the Petitioner by the company listing out the terms and conditions for engaging him as a caretaker of their guest house and by that agreement, the Petitioner has to make his services available to their guests in the best possible manner and without any complaints from them and that in terms of Article 3(d) of the Agreement, the Petitioner was prohibited from consuming alcoholic drinks at any time within the premises of the guest house or be in an intoxicated condition while attending to his duties in the guest house. It is further stated in that Ex.M3 that the management had decided that there is no point in continuing the contractual arrangement with him as caretaker and therefore, they have decided to terminate the contract with immediate effect. The Petitioner has admitted in his evidence in the Chief Examination itself that he was served with that letter dated 8-2-99 terminating him from service . He has further deposed that Ex. W9 is the xerox copy of that agreement dated 19-11-1987 but he would further depose that Manager Sri G.Thinagaran and the Legal Officer Mr. Marimuthu and the Deputy Manager Mr. Sethuraman have asked him to sign an agreement in 1987 to retain him in service otherwise, he may not be allowed to continue in service, so he signed that agreement dated 19-11-1987 under Ex.W9. The Petitioner has not stated so in his claim statement but only in his reply statement, he has stated that one Mr. Sethuraman, Deputy Manager (Personnel), only has threatened him to sign the agreement or he will be terminated from service and hence, as the

Petitioner left with no other alternative, signed the agreement dated 19-11-1987. On the other hand, it the evidence of the Petitioner in his Chief Examination itself that he gave written representations to the Respondent/Management to regularise his service and the Xerox copies of those representations dated 20-4-94 and 28-3-98 are Ex.W2 and W3 respectively. In Ex.W2 letter, the Petitioner has clearly stated that from 1987 he continued to work on contract basis as caretaker in the guest house. Neither in that letter nor in his subsequent letter under Ex. W3, he has contended that he subscribed his signature in the agreement dated 19-11-1987 the original of Ex.W9 under the threat of Mr. Sethuraman, Deputy Manager (Personnel). He has stated so for the first time in his reply statement which he had developed further in his evidence that he was threatened by the Manager Sri G. Thinagar, Legal Officer Mr. Marimuthu and the Deputy Manager Mr. Sethuraman to sign the agreement in 1987 the original under Ex.W9. Subsequent to the issuance of Ex.M3 notice of termination of the contract dated 19-11-1987 by the Respondent/Management to the Petitioner, the Petitioner has sent notice dated 3-4-2000 through his counsel to the Respondent/Management. The xerox copy of the same is Ex.W4, which was received by the Respondent/Management under postal acknowledgement. The xerox copy of that postal acknowledgement is Ex.W5. Ex.W6 is the xerox copy of the reply sent by the Respondent/Management to the advocate's notice Ex. W4. In that notice sent through the lawyer under Ex.W4, it is not the contention of the Petitioner that under threat of the Deputy Manager, Sethuraman, he has subscribed his signature in the contractual agreement dated 19-11-87 for working as a caretaker in the Respondent's guest house. In the reply under Ex.W6 sent by the Respondent through their advocate to the advocate of the Petitioner, it is stated that the Petitioner's services were availed as caretaker of the guest house by the Respondent/Management by an agreement dated 19-11-1987. So from all these things, it is seen that the Petitioner has taken a stand in his reply statement as well as in his evidence as WW1 before this Tribunal that under threat only he had subscribed his signature in the agreement, the original of Ex.W9 dated 19-11-1987. Further, as per his own representation under Ex.W2, he was there in service as caretaker of the guest house of the Respondent/Management under contract basis from 1987.

7. In Ex.M3 itself it is clearly stated that the Petitioner has violated the prescribed terms and conditions in the agreement dated 19-11-87 on many occasions causing much embarrassment and also thereby spoiling the image of the company before their honoured guests and it contains the narration of the various misconducts committed by the Petitioner during his service as a caretaker of the guest house on contract basis. It is also stated that in spite of repeated warning letters have been issued to him, and even

after issuing of final warning stating that contractual agreement would be terminated without any further notice, there was no improvement in the situation and in fact, his misconduct has been worsened. This has been stated in detail in the Counter Statement of the Respondent/Management. In the reply statement filed to the Counter Statement, simply it is stated that the Petitioner denies the allegation that he was found under the influence of liquor on many occasions and the Respondents are put to strict proof of the same. In the cross-examination, the Petitioner has admitted that a memo dated 26-7-95 was issued and it was received by his wife and the xerox copy of the same is Ex.M1. In that memo itself, it is stated as to why his contractual agreement with the company as caretaker should not be terminated because of the misconduct committed by him as mentioned in that memo. Ex.M2 is the xerox copy of the reply given by the Petitioner to Ex. M1, show cause notice. In that reply also, he has not stated that the contractual engagement as caretaker of the guest of the Respondent company under an agreement obtained from him under threat. He had admitted in Ex.M2 to certain extent that due to his sufferings and illness he could not attend the guests properly and he assures that he will not give any room for such complaints against him in the days to come and he may be pardoned. While all the incidents mentioned in the Counter Statement as that of his misconduct has been put to him in the cross examination, he has denied the same as incorrect. The Respondent/Management has examined the then Assistant Manager, Establishment Department Mr. V. Ravishankar as MW1 to give evidence in support of the averments made in the Counter Statement. He has given evidence that Ex. M4 is the xerox copy of the report dated 5-7-94 submitted by the Administrative Officer Mr. A.N. Baskar and the Assistant Manager E.M. Krishnamurthy about their surprise visit to the guest house on 1-7-94 at about 3.00 p.m. In Ex.M4 it is stated that on receipt of complaints between 29-6-94 and 1-7-94 regarding the unruly and drunken behaviour of the Petitioner caretaker of the guest house, the signatories made a surprise visit to the guest house and found the Petitioner in a fully drunken state and he was not in a position to understand their warnings and that they have directed the wife of the Petitioner to admit him in the nearby hospital. Ex.M5 is the xerox copy of the report dated 26-6-95 submitted by the Administrative Officer Mr. A.N. Baskar after conducted an enquiry in respect of compliant received through phone from Chairman-cum-Managing Director stating that the caretaker of the guest house did not take proper care of the guest Mr. Tiwari, Director of the Company. In that report it is stated that when they went to the guest house at 3.30 p.m. on 25th they found Ramarao sleeping on the left side corner of the guest house, when they woke up he was unable to stand properly and could not give proper reply and when questions were put to him about the lack of care and negligence in his responsibility during Mr. Tiwari's stay at the guest house. It is also stated in that report that the

Petitioner was in the heavy influence of liquor and was completely intoxicated. Ex. M6 is the xerox copy of the report dated 26-6-95 given by MW1 along with Administrative Officer Mr. Baskar, about their visit to guest house at about 11.30 am on 26-6-95. It is mentioned in that report that when they went to the guest house at 11.30 am they found the caretaker Mr. Ramarao was fast asleep and that when his wife tried to wake him up, her attempts were in vein and finally with persuasion and attempts when she was able to wake him up, they found that he was completely under the influence of alcohol and none of the questions put to him was neither understood nor replied by him. Ex. M7 is the xerox copy of the another report dated 7-9-95 given by MW1 and Administrative Officer Mr. Benjamin in respect of their visit to the State Bank of Hyderabad on receipt of a complaint about the misconduct of the guesthouse caretaker Mr. Ramarao. It is mentioned in that report that on their visit to the bank, they found the Petitioner was lying stone drunk in the middle of the floor of the bank and they arranged for his transport to guest house by an auto and sent two other staff along with him. Ex. M8 is the xerox copy of the another report dated 19-9-95 submitted by MW1 in respect of the misconduct of the Petitioner as caretaker. In that also it is stated that the guest house caretaker was missing from the guest house from 10.00 am and had not returned and he had returned back at 12.00 pm on the next day in a fully intoxicated condition and he had left the guest house again to an unknown destination at 2.00 pm. Ex. M9 is the xerox copy of the Note put up by Deputy Manager Kannan and Senior Divisional Manager Mr. Ramprasad dated 20-9-95. In that it is stated that on 19-9-95 when they went to the guest house to receive the AGM from Calcutta, the caretaker was not available to serve the guests and on enquiry, they found that the caretaker was in a drunken state lying in his quarter and their efforts to wake him up went in futile. Ex. M10 is the xerox copy of the Note dated 20-9-95 put up by the Assistant Administrative Officer stating that he along with Assistant Manager, Establishment Department. Mr. Ravisankar (MW1) went to the guest house at 12-30 pm to enquire about Ramarao and after some time, they found him fully intoxicated and was not in a position to discharge his duties as caretaker in the guest house. Ex. M11 is the xerox copy of the report dated 25-9-95 given by MW1 and A.N. Baskar, Administrative Officer in respect of their visit to the guest house on 24-9-95 around 1.00 pm. It is mentioned in that report that the caretaker of the guest house was lying flat on the kitchen floor stinking with alcohol smell and had vomited twice or thrice in that posture itself, apart from urinated number of times there itself and the caretaker was lying as such till 5.00 pm under the influence of alcohol. Ex. M12 is another report dated 1-9-97 about the caretaker of the guest house he was found inside Room No. 5 in a complete drunken state. Ex. M13 is the xerox copy of the another report dated 11-9-97 submitted by MW1 and another Senior Divisional Manager in respect of the

misconduct of the Petitioner as caretaker of the guest house stating that he was in completely drunken state and had vomited and urinated in the sofa sets, carpets and divans in the reception hall in the ground floor of the guest house. Ex. M14 is the xerox copy of the joint statement submitted by AGM and MW1 and three others in respect of the misconduct of the Petitioner as caretaker of the guest house on 22-1-1998. They also enclosed with that statement, a statement given by the gardener of the guest house and P.T.S. of the guest house. All these documents have been spoken to in the evidence of MW1. Nothing has been elicited in his cross-examination as what MW1 has been deposed in respect of these documents are all false and such incidents have not been taken place at all. Ex. M15 is the xerox copy of the letter of the Petitioner sent to the Manager of the Respondent/Management dated 17-2-98, wherein it is stated that he has acknowledged the receipt of the memo dated 13-2-98. When this was put to the Petitioner while cross examination, and also a memo dated 13-2-98 mentioned therein, the Petitioner has deposed that the signature contained therein mentioned as 'J. Ramarao' is not his signature. That signature has been marked as Ex. M1. Then on the request of the counsel for the Respondent/Management, the disputed signature with that of admitted signatures have been sent for handwriting expert examination and report. The specimen signatures Ex. S1 to S12 have been admitted by the Petitioner that they are his signatures. The signatures in the memo dated 13-2-98 and the reply to the memo dated 17-2-98 have been marked as Q1 and Q2 by the Handwriting Expert. The Handwriting Expert's report has been marked as Ex. C1. In that report the Handwriting report has opined that the disputed signatures marked as Ex. Q1 and Q2 in the documents dated 13-2-98 and 17-2-98 respectively have been put by the person who wrote the signatures marked as S1 to S24. For giving that conclusion she has also given reasoning sheet along with this report. This has not been challenged by the Petitioner. So from Ex. M15 the original of the same was subjected to Handwriting Expert's examination and report, it is seen that the Petitioner was issued a memo dated 13-2-98 under Ex. XI and has sent the reply dated 17-2-98 under the original of Ex. M15. In that document, he has stated that he has acknowledged the receipt of memo dated 13-2-98 and noted its contents and he expressed his deep regret and apology for the incidents on 22-1-98 and 24-1-98 and he undertake to declare that he will not resort to drunken behaviour. So from this it is seen that for the reason best known to the Petitioner he has denied all these things before this Court and his denial was proved to be false by the Handwriting Expert report Ex. C1. It is also the evidence of MW1 that Ex. M16 is the xerox copy of the note himself and Administrative Officer Mr. Baskar put to the A.G.M., MRO and the Personnel Department, MRO. In that report, they have stated that the caretaker of the guest house was completely drunk on 23-11-98 and 24-11-98 when they visited the guest house and he could not reply to any

other questions and was not in a position to perform any of his regular duties. Ex. M17 is the xerox copy of the warning letter dated 10-12-98 issued to the Petitioner by the Manager of the Respondent company. In that letter itself, it is specifically stated that should the Petitioner fail to adhere to the agreement with the company, the arrangement would be terminated without any further notice to him besides preserving the right to initiate criminal action against him. It is the evidence of MW1 that in spite of the warning given under Ex. M17 the Petitioner continued to behave in the same way and was not discharging his duties as caretaker properly. It is his further evidence that on 28-12-98 also when an officer from the Head Office was staying in the guest house Petitioner has behaved in an unruly manner and the same was reported to them and on their visit, they found that the Petitioner was in a fully drunken state and they have submitted a report and the xerox copy of the same is Ex. M18. It is his further evidence that since the Petitioner has not corrected himself in spite of Manager's final warning under Ex. M17, the Manager has passed an order by terminating the contractual arrangement to the Petitioner without further notice and the xerox copy of the same is Ex. M3. In the cross examination, MW1 has stated that since the Petitioner happens to be a contract employee, the Respondent/Management has not conducted any enquiry with regard to his misconduct before removing him from service. It is his further evidence in the cross examination that under the agreement Ex. W9, no time limit has been fixed for engaging the Petitioner on contract as a caretaker of the company guest house. Ex. M19 is the xerox copy of the case filed by the Petitioner in City Civil Court, Chennai seeking for relief of permanent injunction restraining the Respondent/Management from forcibly evicting him from the servant quarters of the guest house of the company without due process of law. Ex. M20 is the xerox copy of the plaint filed by the Petitioner in that case. MW1 has also denied the suggestion that the Petitioner was the worker of the Respondent/Management and he was not employed under contractual agreement.

8. These oral and documentary evidence available on either side clearly establish that the Petitioner has been engaged by the Respondent/Management as a caretaker of their guest house under an agreement dated 19-11-1987 and he had committed series of misconducts and in spite of warning letters had been given by management, he has not corrected himself, but continued to commit the same misconduct and failed to do his service as a caretaker in the guest house of the Respondent/Management. Under Clause 4 of the agreement under Ex. W9 it is stated that in the event of the conduct or actions of the caretaker, not being found satisfactorily, the company shall have the right to terminate the service contract of the caretaker without notice. So observing these terms of the contract, the II Party/Management has terminated the contract of service of the Petitioner as caretaker of their guest house by issuing an order dated 8-2-99 under Ex. M3. As it is seen from

these records and oral evidence let in by the Respondent/Management, the Petitioner was not employed by the Respondent/Management as its employee but he has been engaged as a caretaker for their guest house under the contract. So as a caretaker employee under a contract by the Respondent/Management, he cannot be considered as an employee of the Respondent/Management. So, it cannot be said that in terminating the Petitioner's service as a contractual employee, the Respondent/Management had violated the provisions of Sections 25F, 25N and 25G of the Industrial Disputes Act, 1947, since the said removal from service does not amount to retrenchment. As the Respondent/Management was not satisfied with the service rendered by the Petitioner as a caretaker of the guest house and the Petitioner has not rectified himself by not committing the same misconduct of becoming alcoholic as per the terms of the contract, the Respondent/Management has terminated the contract of service of the Petitioner. Under such circumstances, it cannot be said that the action of the management in terminating the service contract of the Petitioner without issuing a charge sheet and conducting any enquiry is in violation of principles of natural justice and the provisions of Industrial Disputes Act, 1947. On the other hand, there is overwhelming oral and documentary evidence available on the side of the Respondent/Management to hold that the action of the management of National Insurance Co. Ltd., Chennai, in terminating the contract of service of the Petitioner/Workman Sri G. Ramarao as caretaker of their guest house w.e.f. 8-2-1999 is justified and hence, the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

9. In the result, an Award is passed holding that the concerned workman Sri G. Ramarao is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 27th March, 2003.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

For the I Party/Workman : WW1 Sri G. Ramarao

For the II Party/Management : MW1 Sri Ravishankar

Documents Exhibited :—

For the I Party/Workman :—

Ex. No.	Date	Description
W1 Series(8)		Xerox copy of receipts given by the Respondent/Management to the Petitioner.
W2	20-12-94	Xerox copy of the letter from Petitioner to Assistant General Manager of Respondent/Management.
W3	28-03-98	Xerox copy of the letter from Petitioner to Assistant General Manager of Respondent for regularization of his service.
W4	03-04-2000	Xerox copy of the legal notice issued by Petitioner to Respondent.

Ex. No.	Date	Description	Ex. No.	Date	Description
W5	Nil	Xerox copy of the postal acknowledgement card.	M7	07-09-95	Xerox copy of the note submitted by Assistant Manager to Personnel Department.
W6	20-04-2000	Xerox copy of the reply given by the Respondent to the legal Notice.	M8	19-09-95	Xerox copy of the report submitted by Assistant Manager to the Manager-incharge.
W7	12-10-98	Xerox copy of the driving licence of the Petitioner.	M9	20-09-95	Xerox copy of the note of Senior Divisional Manager to Manager-incharge, MRO.
W8	Nil	Xerox copy of the service voucher issued by I.O.C. Ltd. to Petitioner.	M10	20-09-95	Xerox copy of the Note submitted by Assistant Admn. Officer to Manager-incharge MRO.
W9	19-11-87	Xerox copy of the agreement entered into between the Petitioner and Respondent/Management.	M11	25-09-95	Xerox copy of the note submitted by Assistant Admn. Officer to Manager-incharge MRO.
W10	Nil	Xerox copy of the cover page of ration card of the Petitioner.	M12	01-09-97	Xerox copy of the note submitted by the Officers of Respondent to Manager (Personnel).
W11	Nil	Original Specimen Signatures of the Petitioner obtained in open Court during cross examination.	M13	11-09-97	Xerox copy of the report of Senior Divisional Manager to Manager (Personnel) MRO.
W12	21-12-95	Original certificate issued to Petitioner by Admn. Officer of the Respondent Company with regard to his service and pay.	M14	22-01-98	Xerox copy of the statements submitted by officials of Respondent to Assistant General Manager, MRO.
W13	17-04-97	Original certificate issued to Petitioner by Assistant Admn. Officer of the Respondent Company with regard to his service and pay.	M15	17-02-98	Xerox copy of the reply given by Petitioner to the memo issued by Manager.
W14	02-02-93	Xerox copy of the Note of Deputy Manager to Accounts Department with regard to payment of increment to the Petitioner.	M16	24-11-98	Xerox copy of the note submitted by Assistant Manager to AGM.

For the II Party/Management :—

Ex. No.	Date	Description
M1	27-06-95	Xerox copy of the memo issued to the Petitioner by the Respondent.
M2	07-07-95	Xerox copy of the reply submitted by Petitioner to the memo.
M3	08-02-99	Xerox copy of the letter from Manager to the Petitioner intimating Termination of contract.
M4	05-07-94	Xerox copy of the report of Admn. Officer submitted to Assistant General Manager.
M5	26-06-95	Xerox copy of the note of Manager submitted to Personnel Department.
M6	26-06-95	Xerox copy of the note of Assistant Manager submitted to Personnel Department.
Ex.C1		Original report of the Handwriting Expert.
Ex.X1	13-02-98	Xerox copy of the warning letter issued by Respondent to Petitioner.

नई दिल्ली, 2 अप्रैल, 2003

का. आ. 1276.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 1/92) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-4-2003 को प्राप्त हुआ था।

[सं. एल-12012/214/90-आई. आर. (बी. II)]

सौ. गंगधरण, अवर सचिव

New Delhi, the 2nd April, 2003

S.O. 1276.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1/92) of the Industrial Tribunal, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Uco Bank and their workmen, which was received by the Central Government on 01-04-2003.

[No. L-12012/214/90-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SMT. N. J. SHELAT, PRESIDING OFFICER INDUSTRIAL TRIBUNAL CENTRAL, AHMEDABAD

Reference (ITC) No. 1 of 1992

ADJUDICATION

BETWEEN

UCO Bank, Kalol .. First Party

AND

The Workmen employed under it. .. Second Party

In the matter of terminating the services of Smt. Dinaben Prajapati, Part-time Water-women and cleaner at Kalok Branch w.e.f. 3-5-89.

AWARD

By an Order No. L-12012/214/90-I.R.B-2 dated 13-12-90, the Desk Officer, Labour Ministry, Govt. of India, New Delhi has referred an industrial dispute as stated in the Schedule of above order between the above parties for adjudication u/s. 10 (1) of the Industrial Disputes Act, 1947, initially, to the Industrial Tribunal of Shri V.T. Parikh and thereafter, finally, it was transferred to this Tribunal.

2. The second party—workman has filed statement of claim vide Ex. 5, *inter alia*, contending that she was working with the First Party Bank from 9-7-87 and was doing the work of cleaning and other job entrusted to her; that she was working faithfully and diligently; that she was being paid Rs. 4 per day on Bank's voucher which was less than minimum wage; that she has worked for 134 days in 1987 and 247 days in 1988; that when her services were terminated, she has put in 97 days work in the year 1989; that she has worked for 478 days in all; that her services were terminated orally; that her work was of permanent nature; that she was not given any notice and retrenchment compensation and, therefore, her termination order is illegal and improper. The second party workman has prayed that she should be reinstated on her original post with continuity of service and with full back wages.

3. The first party Bank has contested the reference and has filed the written statement vide Ex. 8, *inter alia*, denying various contentions raised by the second party workman and have stated that they used to entrust the work of fetching drinking water, cleaning utensils and dusting on a casual basis and that whenever the second party workman was so entrusted with the said work, she used to be paid Rs. 4 per day; that the second party workman was not employed or engaged by the first party Bank for cleaning, fetching drinking water, etc.; that she was never employed or engaged by the first party Bank either on daily wages or on permanent basis; that there is no relationship of master and servant and, therefore, question of terminating her services on 4-5-89 or on any other date does not arise. The first party Bank has prayed that the reference deserves to be rejected with costs.

4. The first party Bank has produced xerox copy of petty cash voucher slips by which the payments were effected to the second party workman concerned during the period from 25-7-87 to 2-5-89 in support of their case and as demanded by the second party workman.

5. The concerned workman, Mrs. Dinaben Prajapati has examined herself vide Ex. 28 and has stated in her examination in chief that she was working with the first party Bank from 9-7-87 and she was doing the work of cleaning and other work as shown by the Manager of the first party Bank; that her working hours were from 7.00 AM to 3.00 PM; that her presence was not recorded; that she was being paid on voucher; that she was being paid day to day; that she has worked from 1987 to 1990; that her services were terminated from 4-5-89; that she was not given any written order; that she was not paid notice pay or retrenchment compensation.

Mrs. Dinaben Prajapati was cross examined and she has stated in her cross examination that it is true that she was not given any appointment letter by the first party Bank. She has stated that it is true that she was residing

opposite to first party Bank; that she was going to work with first party Bank as and when work was provided to her. She has admitted in her cross examination that her name is not in the muster roll and in the wage register. She has also admitted that she is paid for the days that she has worked. In the cross examination, she was shown the vouchers produced vide Ex. 15 and she has stated that she has signed on those vouchers and that it is true that she had worked on the days for which the vouchers are produced.

The second party workman has closed her evidence vide Ex. 29 on 8-3-99.

6. The first party Bank has examined one Niranjanbhai Vallabhji vide Ex. 30 on 13-7-99. He has stated in his examination in chief that he is working with the first party Bank as a Branch Manager; that he knows the concerned workman, that she was coming in the Kalol branch for some time; that during his tenure, she has not worked; that she was being called for casual work; it has casual workers are paid by voucher from petty cash. He has further stated in his examination in chief that for casual work, persons are being called who are residing nearby; that the concerned workman was residing nearby and, therefore, she was being called for casual work. He has further stated in his examination in chief that cleaning work is of about 45 minutes.

Shri Niranjanbhai Vallabhji has been cross examined and he has stated in his cross examination that the concerned workman was working from 1987 to 1989 and was doing the work of cleaning; that she was being called from time to time; that he does not know whether she was being called every day as she was not working during his service tenure with the first party Bank. He has further stated in his cross examination that he does not know regarding the appointment and termination of the second party workman.

7. The first party Bank has examined one more witness Shri Madhusinh Dhulaji Rana vide Ex. 32 on 8-12-99. Shri Madhusinh Dhulaji Rana has stated in his examination in chief that he was working with the first party Bank as Head Cashier from 1977; that he knows the concerned workman; that the concerned workman was doing the work of cleaning and that she has working for one hour; that she was being paid on a daily wage basis; that permanent workman are being paid on a monthly basis.

Shri Madhusinh Dhulaji Rana was cross examined and he has stated in his cross examination that the concerned workman was working as a Cleaner; that she was not given any appointment order or termination order.

8. The first party Bank has closed their evidence vide Ex. 33 on 10-2-2000.

9. I have gone through records and papers of the case and have considered arguments of both the parties and find that it is not in dispute before this Tribunal that

the second party workman was working with the first party Bank, on part-time basis and was doing the work of cleaning and was being paid on voucher on daily basis on the days on which she was working. It is also crystal clear from the record of this case that the second party workman was working with the first party Bank on a purely temporary and *ad hoc* basis from time to time intermittently. It is also crystal clear that she was not appointed on regular permanent post by the first party Bank. From the evidence on record, there is nothing to show that the second party workman's termination is illegal or that she is entitled to permanent status or regularisation of her service and there is nothing on record to show that the second party workman is entitled to be re-employed. The second party workman has failed to prove that she was a permanent employee of the first party Bank and that the first party Bank has indulged into unfair labour practice by terminating her services without giving her notice or retrenchment compensation. I, therefore, come to the conclusion that the action of the Management of United Commercial Bank, Zonal Office, Ahmedabad in terminating the services of Ms. Dinaben Prajapati, part-time water-women and clearer at Kalol Branch, w.e.f. 3-5-89 is legal and justified and Ms. Dinaben Prajapati is not entitled to any relief.

In order to draw above conclusion, I have placed my reliance upon the principles laid down by the Apex Court in Special Leave Petition (C) No. 7957 of 1996 CC -6908/96 (from the judgment and order dtd. 1-7-96 of the Patna High Court in L.P.A. No. 123 I of 1995) between Himanshu Kumar Vidharthi & Ors. Vs. State of Bihar & Ors. reported on 1997, II CLR 15. It was held in that judgment "that petitioners are temporary daily wage employees; that they were not appointed to the post in accordance with the rules and that as such their disengagement from service cannot be construed to be a retrenchment nor can the same be described as arbitrary." In the present case before this Tribunal, the second party workman Ms. Dinaben Prajapati was not appointed as part-time water-woman and clearer in accordance with the rules of the first party Bank and, therefore, her disengagement from service cannot be construed to be a retrenchment nor the same can be described arbitrary. In this view of the matter and under the facts and circumstances of the case, I pass following order :—

ORDER

The action of the Management of United Commercial Bank, Zonal Office, Ahmedabad in terminating the services of Ms. Dinaben Prajapati, part-time water-woman and cleaner at Kalol Branch, w.e.f. 3-5-89 is legal and justified. Ms. Dinaben Prajapati is not entitled to any relief. No order as to costs.

Ahmedabad, 27 March, 2003.

N. J. SHELAT, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2003

का. आ. 1277.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की थारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधित तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम व्यायालय नं.-2, धनबाद के पंचाट (संदर्भ संख्या 163/99) को प्रकाशित करते हैं, जो केन्द्रीय सरकार को 1-4-2003 को प्राप्त हुआ था।

[सं. एल-12012/218/98-आई. आर. (बी. II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 2nd April, 2003

S.O. 1277.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. 163/1999 of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad No. 2 as shown in the Annexure, in the industrial dispute between the management of Bank of India and their workmen, received by the Central Government on 1-4-2003.

[No. L-12012/218/98-IR (B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Present :

Shri B. Biswas,
Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 163 of 1999

Parties : Employers in relation to the management of Bank of India and their workmen.

Appearances :

On behalf of the workman	: None
On behalf of the employers	: None
State	: Jharkhand
Industry	: Bank

Dated, Dhanbad, the 20th March, 2003

ORDER

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12012/218/98/IR(B-II), dated the 23rd March, 1999.

SCHEDULE

“Whether the demand of the union to regularise Sh. Dhanesh Xalxo, Part-time Sweeper by the management of Bank of India is justified & proper? If yes, what relief the workman is entitled to?”

2. In this reference neither of the parties turned up before this Tribunal. It is seen from the record that the instant reference was received by this Tribunal on 1-4-1999 and since then it is pending for disposal. Registered notices and show cause notices were issued to the workman as well the management but inspite of the issuance of notices the workman has failed to turn up though management appeared. The management also did not submit any written statement. In terms of Rule 10B of the I.D. Central Rules, 1957 submission of W.S. by the concerned workman with 15 days is a mandatory one. The concerned workman not only violated the said provision of the Rules but also did not consider necessary to give any response to the notices issued by this Tribunal. In natural course the question which will arise is what will be the fate of the reference made by the Ministry for its disposal. The reference is made on the basis of dispute raised by the concerned workman/union. Naturally responsibility rests with the concerned workman and the management to assist the Court to dispose of the reference in issue on merit. In view of the decision reported in 2002(94) FLR 624 it will not be just and proper to pass 'No dispute' Award when both the parties remain absent. There is also no scope to answer the reference on merit in absence of any W.S. and available documents. There is no dispute to hold that when any reference is made it is expected to be disposed of on merit but when the parties do not take any step or do not consider even to file W.S. such expectation to dispose of the reference on merit comes to an end. It is not expected that for years together the Court will pursue the matter suo moto with the expectations for appearance for the workman and the management inspite of issuance of registered notices. As per I.D. Act the workman excepting under provisions of Section 2A is debarred from raising any industrial dispute. The disputes are mainly raised by the Union for their workmen. These unions inspite of receiving notices did not care to appear before the Court for the interest of the workman and as a result they have been deprived of getting any justice until and unless the attitude of the union is changed. I consider that this uncalled for situation will persist. Definitely it is the duty of the Court to dispose of the reference on merit but it depends on the cooperation of both sides. Here the record will clearly expose that sufficient opportunities had been given to the workman/union but yielded no result. This attitude shows clearly that the workman side is not interested to proceed with the hearing of the case for disposal on merit.

Under the facts and circumstances, I also do not find any sufficient reason to drag on the case for an indefinite period. Accordingly as there is no scope to dispose of the reference in question on merit, the same is closed.

B. BISWAS, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2003

का. आ. 1278.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण गोहाटी के पंचाट संदर्भ संख्या 18(सी)/2000 को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-4-2003 को प्राप्त हुआ था।

[सं. एल-12012/61/2000-आई. आर. (बी. II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 2nd April, 2003

S.O. 1278.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. 18(C)/2000 of the Industrial Tribunal Guwahati as shown in the Annexure, in the Industrial dispute between the management of Central Bank of India and their workmen, receive by the Central Government on 1-4-2003.

[No. L-12012/61/2000-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL: GUWAHATI: ASSAM

Reference No. 18(C) of 2000.

Present : Shri H.A. Hazarika,
Presiding Officer
Industrial Tribunal, Guwahati.

In the matter of an Industrial Dispute between :

The Management of
Central Bank of India,
Kokapather Branch,
Tinsukia.

Vs.

Their Workman Shri Upen Ch. Das, Clerk,
C.B.I., Tinsukia.

Date of Award : 21-3-2003.

AWARD

The reference arising out of the Govt. Order No. L-12012/61/2000/IR(B-II), dated the 22-8-2000 relates to the dispute indicated in the schedule below :

“Whether the dismissal of services of Shri Upen Ch. Das, Clerk by the management of Central Bank of India is justified and legal? If not what relief is the workman concerned entitled to?”

2. The learned advocate Mr. D.K. Sarma is present for the management. None appeared for the workman. Perused the last orders consecutively passed. Also perused the evidence deposed for the management. It

appears to me that the workman concerned is not at all interested to proceed with the matter. The reason to believe so is the ground that the workman persistently remained absent without step. For ends of natural justice and for the interest of speedy disposal I think it will be just to dispose the matter today.

In the result the matter is disposed with a no dispute award. Prepare an award accordingly.

H.A. HAZARIKA, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2003

का. आ. 1279.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय एफ. सी. आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली (संदर्भ संख्या 36/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-4-2003 को प्राप्त हुआ था।

[सं. एल-22012/497/90-आई. आर. (सी. II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 2nd April, 2003

S.O. 1279.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 36/91) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 1-4-2003.

[No. L-22012/497/90-IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL: NEW DELHI

PRESIDING OFFICER : Shri B. N. Pandey

LD. No. 36/91

General Secretary,
Food Corporation of India
Employees Union (Workman) ...Applicant

Vs.

Manager Establishment
Food Corporation of India,
Head Quarters New Delhi ...Management

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-22012(497)/90-IR(C-II), dated the 22-3-91 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of F.C.I., Head-Quarter, Barakhamba Lane, New Delhi, in withdrawing the stagnation increments after granting the same under 19-7-84 to 19 employees (list enclosed) is justified, If not what relief these workmen are entitled to?"

2. Case was fixed for disposal in Lok Adalat Today. Both the parties filed written compromise with permission to withdraw the claim and prayed to decide the case as now no dispute exist between the parties.

3. On the basis of the written compromise No dispute award is passed in this reference leaving the parties to bear their own costs. award is given accordingly.

B. N. PANDEY, Presiding Officer.

नई दिल्ली, 2 अप्रैल, 2003

का. आ. 1280.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय ई.सी.एल. प्रबंधतात्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल (संदर्भ संख्या 90/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-4-2003 को प्राप्त हुआ था।

[सं. एल-22012/349/98-आई. आर. (सी. II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 2nd April, 2003

S.O. 1280.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 90/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 01-04-2003.

[No. L-22012/349/98-IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL.

Present : Shri Ramjee Pandey,
Presiding Officer.

Reference no. 90 of 1999.

Parties : Chief General Manager of
Bankola Area ...Management
Vrs.
Vijay Swai, SDI Helper ... Workman

Representation :

For the management : Shri P. K. Das,
Advocate.

For the union (workman) : Shri R. Kumar, General
Secretary of Koyala
Majdoor Congress,
Asansol.

Industry : Cole.

State : West Bengal

Dated the 24th January, 2003.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of the section 10 of the Industrial Disputes Act, 1947. Govt. of India through the Ministry of Labour vide its Order No. L-22012/349/98/IR(CM-II) dated 7-7-99 has referred the following dispute for adjudication by this Tribunal.

"Whether the action of the management of Bankola Colliery, Bankola Area of M/s. ECL in dismissing Sh. Bijoy Swai, SDI Helper is legal and justified? If not, to what relief is the workman entitled to?"

2. In response to the summons sent by the Tribunal both the parties appeared through their respective representatives. Shri P.K. Das, Advocate appeared for the Management. Shri R. Kumar, General Secretary of Koyala mazdoor Congress appeared for the union (workman), Both the parties filed their respective written statement and contested the dispute.

3. The facts of the case in brief are that the workman *viz.* Shri Bijay Swai was a permanent worker of Bankola Colliery, Bankola Area of M/s. ECL as a SDI Helper. He was dismissed from service on the ground that he became absent from his duty from 21-5-91 to 30-6-91 and he has challenged the order of dismissal from his service.

4. The case of the union in brief is that the workman fell ill and he was not able to perform his duty to which he could not resume his duty from 25-5-91 to 30-6-91. Although the management conducted enquiry but the enquiry was ex parte and the workman was not given opportunity to defend himself and hence order of dismissal is wrong. No second show cause notice was given to the workman before awarding punishment. It is further stated that the punishment of dismissal from service is hard and disproportionate to the nature of mis-conduct and prayer had been made to pass necessary order to reinstate the workman in service with back wages.

5. The case of the management in brief is that the absence of the workman was unauthorised as he has neither obtained any leave nor he gave prior intimation to the management about his absence and hence he was charge-sheeted. The charge-sheet was sent to him by post at his home address but no response was received and accordingly the enquiry was conducted. The notice of enquiry was also sent to the workman by Registered Post but the workman did not attend the enquiry and in such situation the ex parte enquiry was conducted. During enquiry the misconduct of the workman was proved and hence the workman was dismissed from service. The plea of the workman regarding his illness is not correct. The punishment of dismissal is justified since due to absence of the workman the management has suffered a lot.

6. Although the union has pleaded in the written statement that the enquiry was conducted ex parte and the workman was not given opportunity but during hearing on the point of fairness and validity of enquiry proceeding the union did not challenge the same rather admitted that he would make submission on the basis of materials in the enquiry proceeding and hence by order dated 10-10-2002 the enquiry proceeding has been held to be valid.

7. First point for consideration is as to whether the charge against the workman has been established and the finding of the Enquiry Officer is correct and based on evidence. I perused the enquiry report and the evidence collected during the enquiry. From the enquiry report as well as the evidence during enquiry. It is proved that the workman became absent from his duty from 21-5-91 to 30-6-91 without any leave or prior intimation to any competent authority. The absence of the workman from duty during above mentioned period has been admitted by the union and the union has taken the plea in its written statement that due to sickness the workman could not attend his duty but I find that no evidence was given by the workman to prove his plea of sickness and hence the finding of the Enquiry Officer is correct and the charge against the workman has been proved.

8. Now only point for consideration is as to whether the punishment of dismissal from service is justified or not. In this regard it was submitted on behalf of the workman that there is nothing on the record to show that the workman was ever chargesheeted or punished for any type of misconduct in past and hence the charge against the workman is minor and punishment of dismissal is shocking and disproportionate to the nature of misconduct. The learned lawyer for the management also admitted that there is nothing on the record to show that the workman was chargesheeted or punished in past for any such misconduct or any type of mis-conduct.

9. In view of the above discussion I come to the conclusion that only misconduct on the part of the workman has been proved that he became absent from his duty for a period of one month nine days and in my opinion also the nature of misconduct is minor warranting a minor punishment only. In this view of the matter I come to the conclusion that the punishment of dismissal is shocking and disproportionate to the nature of misconduct. Hence the order of dismissal is set aside and the management is directed to reinstate the workman in service. It has been neither pleaded nor proved by the management that the workman was gainfully employed during the period after the dismissal and hence the workman is entitled to back wages, but considering the fact that the charge against the workman has been proved, in facts and circumstances of the case he will be entitled to 60% back wages. Accordingly in the above mentioned manner the award is passed.

RAMJEE PANDEY, Presiding Officer.

नई दिल्ली, 2 अप्रैल, 2003

का. आ. 1281.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय ई. सी. एल. प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल (संदर्भ संख्या 7/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-4-2003 को प्राप्त हुआ था।

[सं. एल-22012/70/2000-आई. आर. (सी. II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 2nd April, 2003

S.O. 1281.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 7/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 01-04-2003.

[No. L-22012/70/2000-IR (C-II)]

N. P. KESAVAN, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Shri Ramjee Pandey, Presiding Officer.

Reference No. 7 of 2001.

PARTIES:

Agent, Shankarpur Colliery
of E.C.L.

...Management

Vrs.

Shri Hari Rajbhar, Pit Clerk

...Workman

REPRESENTATION:

For the management : None.

For the union : None
(workman)

Industry : Coal.

State : West Bengal

Dated the 23rd January, 2003

AWARD

In exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947, Govt. of India through the Ministry of Labour vide its Order No. L-22012/70/2000-IR(C-II) dated 12-4-2001 has referred the following dispute for adjudication by this Tribunal.

“Whether the action of management of Shankarpur Colliery of M/s. Eastern Coalfields Limited, is not paying the differential of wages of Sri Hari Rajbhar, Pit Clerk from 27-9-96 to 25-12-97 for working in higher category duly authorised by the management is legal and justified? If not, to what relief is the workman entitled to?”

2. After receipt of the reference summons were sent to the parties by registered post. In response to the summons both the parties appeared through their representatives and prayed for time for submission of written statement. Several adjournments were allowed but both the parties did not submit their written statement. Today was the last chance for submission of written statement but both the parties did not appear. It seems that both the parties have got no interest to contest the dispute. Hence a ‘No Dispute Award’ is passed.

RAMJEE PANDEY, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2003

का.आ. 1282.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. एस. एट. के प्रबंध धर्ता के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुदंड में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद (संदर्भ संखा 129/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-4-2003 को प्राप्त हुआ था।

[सं. एल-22012/452/99-आई.आर. (सी.-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 2nd April, 2003

S.O. 1282.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 129/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 1-4-2003.

[No. L-22012/452/99-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:

SHRI E. ISMAIL, Presiding Officer

Dated the 10th day of February, 2003

INDUSTRIAL DISPUTE NO. 129/2002

(Old I.D. No. 97/2000 transferred from Industrial
Tribunal-I, Hyderabad)

Between :

The Vice President
Central Council, S. C. Workers
Union, Coal Chemical Complex,
Manchirial, Adilabad District.Petitioner

AND

The General Manager,
M/s. Singareni Collieries Co. Ltd.
Sreerampur-504303.Respondent

APPEARANCES:

For the Petitioner : M/s. K. Lakshman and G. Rajesh,
Advocates

For the Respondent : M/s J. Pathasarthy, V. Hariharan
and A. Chandrasekhar, Advocates.

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/452/99-IR(CM-II) dated 4-8-2000 referred the following dispute under Section 10(l)(d) of the I.D. Act, 1947 for adjudication to the Industrial Tribunal-I, Hyderabad between the management of M/s. Singareni Collieries Co. Ltd. and their workman, which has been transferred to this Tribunal in view of Government of India, Ministry of Labour's Order No. H-11026/2001-IR (C-II) dated 18-10-2001 bearing No. I. D. 97/2000. The reference is,

SCHEDULE

“Whether the action of the management of M/s. Singareni Collieries Co. Ltd./ Sreerampur (Project) Area in not preponing/ changing the date of appointment of Shri T. Ramesh Reddy, Shri K. Srinivas, Shri K. Jagan Mohan Rao, Shri K. Shankaraiah and Shri Md. Habibuddin, Electricians and Fitters of Sreerampur Division is justified? If not, what relief the workmen are entitled ?”

The reference is renumbered in this Tribunal as I.D. No. 129/2002 and notices issued to the parties.

2. The claim petition was filed on behalf of Sri K. Shankaraiah and Sri K. Jaganmohan Rao two of the affected parties. That they were called for the written test for the post of fitter trainee (Category-1) by the Respondent and accordingly they appeared for written test on 19-6-90 along with many other candidates. They were successful in the written examination held on 19-6-90 and accordingly the Respondent had appointed them for the post of fitter trainee category-I vide Order No. GTE/ITC/90/M/2236 dated 12-7-1990. That Mr. Shankaraiah and Mr. Jaganmohan Rao have reported to the Respondent in August, 1990 and they were posted for training vide letter dated 20-8-1990 at Sreerampur Project Area. The said appointment was after completion of all the formalities like medical test etc. One Mr. V. Sadanandam, Electrician, Godavarikhani 11A Incline was also appointed along with Mr. Shankaraiah and Mr. Jaganmohan Rao. All of them attended the written test on the same date and completed the medical test on the same date and reported to duty on the same date.

3. Mr. Shankaraiah and Mr. Jaganmohan Rao were appointed as fitter helper Category-I, w.e.f. 2-9-1991 vide order dated 13-5-92. Both of them were again promoted as fitter category-IV w.e.f. 2-9-1992 vide order dated 21-6-93 vide memorandum of settlement dated 3-3-89. On completion of three years they were promoted to Category-V w.e.f. 1-3-96 Mr. Sadanandam was also attended the written test on 19-6-90. That Mr. Sadanandam has also attended the written test on 19-6-90 for the post of Electrician Trainee (category-I) based on GM (Personnel) letter dated 2-6-90 along with Mr. Shankaraiah and Mr. Jaganmohan Rao of Sreerampur Project Area. Mr. V. Sadanandam was appointed

as electrician trainee in Category-I, and posted to General Manager, Ramagundam Area and later posted at Godavarkhani 11 Incline vide order dated 14-8-90. In the said letter Mr. Sadanandam was asked to report for duty on 26-8-90. Accordingly he reported for duty and was appointed as electrician trainee (Category-I) w.e.f. 26-8-90. It is submitted that Mr. Shankaraiah, Mr. Jaganmohan Rao and Mr. Sadanandam appeared for written test held on 19-6-90 and selected simultaneously on the same day and reported for duty on 26-8-90 but the Respondent issued orders to Mr. Sadanandam asking him to report to duty on 26-8-90 where as the Respondent issued orders to Mr. Shankaraiah and Mr. Jaganmohan Rao on 1/3-9-1990. That the appointment orders were issued on different dates due to administrative delay and lack of awareness in the matter. The Respondent issued orders to Mr. Shankaraiah and Mr. Jaganmohan Rao asking them to report for duty for the first time only on 3-9-90 though they reported to duty at GM, Sreerampur (Project) Office in August, 1990 on par with the same electrician trainee who was allowed to report duty on 26-8-1990. Therefore, Mr. Shankaraiah and Mr. Jaganmohan Rao are deprived of promotion and also basic pay on par with Mr. V. Sadanandam. That Mr. V. Sadanandam was promoted as Electrician helper in Category-II on 26-8-1991 itself whereas Mr. Shankaraiah and Mr. Jaganmohan Rao were promoted as fitters in Category IV w.e.f. 2-9-92 instead of August, 1992. Ultimately Mr. Shankaraiah and Mr. Jaganmohan Rao were promoted as fitter in Category IV w.e.f. 1-3-96 instead of 1-9-95, whereas Mr. Sadanandam was promoted from 1-9-95. Thus Mr. Shankaraiah and Mr. Jaganmohan Rao were deprived of promotion in time and also fixation of pay scale in time due to administrative delay of Respondent. That another workman Sri G. Yellaiah who had reported on 3-9-90 is drawing basic pay of Rs. 89.60 ps in December, 1998 whereas the Petitioners are drawing Rs. 86.42 ps per day which clearly show that they were discriminated.

4. That Petitioners raised a dispute before the ALC(C), Mancherial, who in turn conducted both joint discussions and conciliation proceedings but due to adamant and non-cooperative attitude of the Respondent it resulted in failure. Hence, the reference. Therefore, the Respondent may be directed to change date of joining of Mr. Shankaraiah and Mr. Jaganmohan Rao as 26-8-90 in all the promotion orders and Category V w.e.f. 1-9-95 on par with Mr. V. Sadanandam electrician.

5. A counter was filed on behalf of Respondent. It was stated that Mr. Shankaraiah and Mr. Jaganmohan Rao were initially appointed as electrician/fitter trainees as per the company's training scheme. The initial appointment was for a period of one year from 3-9-90. Accepting the terms they reported. Hence, they were appointed in Sreerampur area and their date of appointment is 3-9-90. That in the year 1978 management entered into a Memorandum of Settlement dated 28-9-1978 with the Petitioner

union and as per the said settlement an electrician or fitter who completes three years service in Category-IV is eligible for placement in Category-IV. Such cases are reviewed on 1st March and 1st September as per the circular dated 4-1-80. As both the persons reported for duty on 3-9-1990, hence, their promotion would be on 1st March of the succeeding year. That Mr. Sadanandam reported for duty on 26-8-1990 itself, therefore his date of appointment is 26-8-1990. That it is not denied that a common test was held and all of them went training together but actually time of joining has to be taken into account. Hence, a Nil award may be passed.

6. Mr. K. Shankaraiah examined himself as WW1 and deposed to the said facts and marked the following documents. Ex. W1 is the call letter for the written test. Ex. W2 is the joining letter dated 1/3/4-9-1990. Ex. W3 is the officer order dated 3-9-1990. Whereas Mr. Sadanandam got earlier promotion hence, he may be promoted. In the cross-examination he deposed that he is not aware of the agreement dated 3-3-1989 and 28-9-1978 which governs the appointment of Tradesman. He denied that their seniority is based on the date of joining in the Department but, mainly reporting for duty to GM. He denied that he reported at GM office and the appointment letter was issued on the same day. The witness adds that he reported on 28-8-90 and appointment order was given on 3-9-90. He denied that as some of his colleagues who appeared along with him reported at Ramagundem on 26-8-90 and were given appointment letters. It is not true to say that in order to claim seniority he is falsely deposing that he reported on 28-8-90.

7. The other person has not get into the witness box and the management examined Sri N. Anantha Ramaiah, Senior Personal Officer, Singareni Collieries Co. Ltd. as MW1. He deposed to the said facts and added that as per company rules the date of reporting to duty at concerned Mines and Department shall be reckoned as the date of appointment. Mr. Sadanandam reported for duty on 26-8-90 and they reported late. In the cross examination he stated that it is true that the Respondent has issued Ex. W2 office order to the Petitioner and the date is mentioned as 1/3-9-1990/4-9-90. That he has not filed the office order dated 28-8-90. That Mr. Sadanandam's name was not included in the office order dated 1-3-90 as he belongs to Ramagundem area.

8. It is argued by the Learned Counsel for the Petitioner that Ex. W1 is the call letter for the written test, Ex. W2 is the joining letter dated 1-3-90, Ex. W3 is the office order dated 3-9-90. The other documents need not be considered here. It is argued by the Learned Counsel for the Petitioner, that Mr. Sadanandam has been promoted earlier to him. But actually due to the delay in issuing of order clerical and administrative delay. He has been denied promotion on par with Mr. Sadanandam. Thereby he is

deprived of his seniority and monetary benefits. Therefore he submits that his appointment may be preponed to 28-8-1990.

9. It is argued by the Learned Counsel for the Respondent that out of five persons referred in the reference only two Mr. Shankariah and Mr. Jaganmohan Rao thought it fit to approach the Court and then only Mr. Shankariah deposed and Mr. Jaganmohan Rao did not even come to depose. So the case now pertains only to Mr. Shankariah and Mr. Jaganmohan Rao and strictly speaking only to Mr. Shankariah as Mr. Jaganmohan Rao has also not gone into the box for cross examination. That is as per the settlement only, those who have completed three years in Category-IV will be promoted to Category-V. As Mr. Sadanandam reported in August, he was promoted from 1-9-95 and as these persons reported on 1/3-9-1990 are therefore promoted from 1-3-96. He also argued that in view of Hon'ble Supreme Court Judgement in Amarjit Singh Vs. State of Punjab -AIR 1975 SC 984 held that, "Any order of appointment may be of three kinds. It may appoint a person with effect from the date he assumes charge of the post or it may appoint him with immediate effect or it may appoint him *simpliciter* without saying as to when the appointment shall take effect. Where the order of appointment is of the first kind, the appointment would be effective only when the person appointed assumes charge of the post and that would be the date of his appointment." He therefore submits that there is no discrimination and further they should have raised the dispute at the time in 1990 or 1991 itself when Category-II they were promoted on 2-9-91 and Sadanandam was promoted on 26-8-91. Now after such a long lapse they cannot now claim that there is discrimination. Further he submits that the Hon'ble Supreme Court in Union of India Vs. E. S. Sounderrajan, AIR 1980 SC 959, wherein it was held, "It is well established proposition that there cannot be a case of discrimination merely because fortuitous circumstances arising out of some peculiar developments or situations create advantages or disadvantages for one group or the other, although in the earlier stages, they were more or less alike. If one has not been singled out for a special treatment the same circumstances of advantages, accruing to one or the other cannot result in breach of the Article 14 of the Constitution." Hence, he prays that the petition may be dismissed.

10. Ex. W2 shows whether it is dated 1/3-9-90 or 1/3-4-9-90. It shows that they reported to duty in pursuance of letter dated 28-8-90 at Srirampur project area in September, 1990 and not like Mr. Sadanandam who reported for duty in August, 1990 and because earlier promotion, there was only difference of few days, it did not prick to them, but as now difference is of six months they thought it fit to raise the dispute. There is no proof that they reported earlier to Mr. Sadanandam and further Mr. Sadanandam reported at Ramagundem area and these persons reported at Srirampur.

Suffice it to say that out of five persons in reference only two thought it fit to approach the Court, out of two Mr. Jaganmohan Rao does not come to depose and withstand the test of cross-examination by examining himself. Only Mr. Shankariah has examined himself. But he has also failed to prove that there was any discrimination by the Respondent, *viz-a-viz* Mr. Sadanandam or any other. Therefore I answer the reference as follows: "That the action of the management of Singareni Collieries Co. Ltd. in not preponing/ changing the date of appointment of Sri K. Shankariah is justified. Hence, I hold that the workman is not entitled to any relief."

Award passed. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 10th day of February, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner :	Witnesses examined for the Respondent :
WW1 : Sri K. Shankariah	MW1 : Sri Anantha Ramaiah

Documents marked for the Petitioner

- Ex. W1 : Copy of call letter for written test dt. 2-6-90
- Ex. W2 : Copy of Office order No. P/SRP(P)/2/90/2917 dt. 1/3-9-90 or 4-9-90.
- Ex. W3 : Copy of Office order No. P/SRP(P)/2/90/2917 dt. 3-9-90
- Ex. W4 : Copy of Office order No. P/SRP(P)(PM)/2-B/92/1189 dt. 13-5-92
- Ex. W5 : Copy of Office order No. P/SRP(P)(PM)/2-B/93/1504 dt. 21-6-92
- Ex. W6 : Copy of Office order No. Agent/IR/6/96/134 dt. 14-3-96
- Ex. W7 : Copy of Office order No. ACME(T)/RG/90/6-A/961 dt. 14-8-90
- Ex. W8 : Copy of Office order No. ACME(T)/RG/91/6-A/786 dt. 30-8-91
- Ex. W9 : Copy of Office order No. PRG II/4J/2266 dt. 7-10-92
- Ex. W10 : Copy of Office order No. CME/11A/38/1203 dt. 25-9-95
- Ex. W11 : Copy of Union's representative to the ALC(C), Mancherial dt. 17-6-99.

Documents marked for the Respondent

NIL

नई दिल्ली, 3 अप्रैल, 2003

का. आ. 1283.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ हैदराबाद के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेबर कोर्ट, हैदराबाद के पंचाट (संदर्भ संख्या आई डी एल सी आई डी नं. 14/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02-04-2003 को प्राप्त हुआ था।

[सं. एल-12014/2/2003-आई. आर. (बी. I.)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 3rd April, 2003

S.O. 1283.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. L.C.I.D. No. 14/2001) of the Central Govt. Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of Hyderabad and their workman, which was received by the Central Government on 02/04/2003.

[No. L-12014/2/2003-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present

Shri E. ISMAIL
Presiding Officer

Dated the 10th day of February, 2003

Industrial Dispute L.C.I.D. No. 14/2001

Between

Sri L. Venkateswarlu,
H. No. 3-11-21, Shiva Ganga Colony,
L.B. Nagar, Hyderabad.Petitioner

AND

1. The Chief Manager,
State Bank of Hyderabad,
Service Branch, Hyderabad.
2. The Branch Manager,
State Bank of Hyderabad,
Sultan Bazar Branch, Sultan Bazar,
Hyderabad.Respondents

Appearances :

For the Petitioner : M/s. G.Ravi Mohan, R. Devender Reddy, G. Srinivasa Reddy & G. Naresh Kumar, Advocates

For the Respondent : Sri A. V. S. S. Prasad, Advocate

AWARD

This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as stated in the petition are : That the Petitioner was appointed in the 2nd Respondent branch as attender in the month of August, 1994. On daily wages of Rs. 40/- per day. Subsequently the same was enhanced to Rs.65/- per day. The Petitioner was performing the duty which is of perennial nature that too in a clear vacancy. Though the Petitioner was designated as a daily wage employee he was paid salary once in a month. Therefore the Petitioner was performing his duties in a regular vacancy without any break in service and to the utmost satisfaction of his superiors. That he worked till August, 1998 without any appointment letter. The Respondent used to maintain the attendance register and wage register for the daily wage employees including the Petitioner herein.

3. The Petitioner made a representation to the Respondent on 7-5-98 for regularization of his services. In response to the same, the Respondent instead of considering the case of the Petitioner for regularization abruptly terminated the services of the Petitioner orally on 30-8-98 without issuing any notice which action of the Respondent is illegal, arbitrary and unjust. The Respondent has taken work for a period of 4 years and without fulfilling the obligations under Sec.25 F of the I.D. Act terminated his services which is illegal. Hence, this Hon'ble Court may be pleased to set aside the oral termination order dated 30th August, 1998 as the same is illegal, arbitrary and unjust and direct the Respondent to reinstate the Petitioner into service with continuity of service, attendant benefits, back wages etc.

4. A counter was filed on behalf of R1 and R2 separately which is practically same. However, the main contention of both the counters are as follows: The Petitioner never worked in the Respondent bank either at R1 branch or at R2 branch for more than 240 days in a calendar year. The Petitioner was appointed without authority and as such the employment is illegal and the appointment is non-existent in the eye of law. Moreover the Petitioner was a daily wages labourer engaged only on the basis of a contract lasting for a day only and each engagement is a fresh engagement and as per the Government of India instructions regarding absorption of temporary employees and circulated vide circular No.F3/3/108/87-IR, Ministry of Finance, Department of Economic Affairs, Banking Division dated 6-8-90 those temporary employees who have put in minimum temporary service of 90 days or more after 1-1-82 and who have fulfilled prescribed eligibility criteria were considered for appointment in the subordinate cadre and thereafter as per Government guidelines no absorption of the daily wages employees will be considered by

the bank. The services of the Petitioner were engaged as temporary peon on daily wages for attending to lunch room duties, setting of records etc., which involved a few hours per day and he was paid Rs. 30/- per day on some days and Rs. 65/- per day on some days depending upon the work. During 1994 he was engaged for 85 days, during 1995 for 89 days, during 1996 for 66 days, 1997 for 89 days and his services were not utilized at all after 2-5-97. All other averments are wrong. The Petitioner has worked with R2 from 1-10-97 to 31-8-98 for 71 days in the year 1997 and 150 days in the year 1998. The employment in the other branch of the bank cannot be clubbed as one service as nature of contingency arises in a Respondent branch is different from that of other branch. There is no retrenchment as such the Petitioner is not entitled for any relief. Various Judgements are quoted which need not be repeated here as they can be looked into in the arguments of the Respondent. Hence, the petition may be dismissed.

5. The Petitioner examined himself as WW1 and deposed that he was working on daily wages. He was paid monthly Rs. 1200/. His salary was enhanced to Rs. 65 per day. That he has worked with R1 and R2. That he worked as attender cum peon. The work is of permanent nature. Some of the workers working along with him are still working. Ex. W1 is the certificate which shows that he worked for 329 days during April, 1994 to May, 1997 dated 2-2-99. Ex. W2 is the certificate which shows that he worked from October 1997 to August, 1998 for 235 days with R2. That on 30-8-97, he was orally terminated without assigning any reasons. He was not given any written notice or any wages in lieu thereof. That he worked since his appointment continuously till his removal. The management maintained attendance register and wage register. He prays that he may be reinstated with continuity of service. That Sambaiah and Srinivas who were working with him are regularized.

6. In the cross examination he deposed that he is aware of the contents of the claim petition. He has not made Sambaiah and Srinivas as parties to the claim petition. He was not given any appointment order nor termination order. He has not filed representation dated 1-2-99 given to the Respondent. He denied that he worked only temporary service but not in clear vacancy.

7. The management examined Sri Md. Ameeniddin, Chief Manager, State Bank of Hyderabad, in Respondent No.1's branch as MW1 who deposed that the WW1 worked on daily wages by doing lunch room duties and setting of records etc. for a contract lasting for a day. He was paid Rs. 30/- per day on some days and Rs. 60/- per day on some days depending upon the nature of the work. Petitioner worked for 329 days during the years 1994, 1995, 1996 and 1997 till 2-5-1997.

8. In the cross examination he deposed that he is deposing as per record. WW1 never worked under him. That no attendance register or wage register was main-

tained at present. He denied that there is still work and they are taking different persons. He denied that he dispensed WW1's service in order to deprive him the benefit of regularization.

9. Sri M. Mahipal who is working as Branch Manager with R2 deposed as MW2. That Ex. M1 shows the number of days the Petitioner had worked which are in conformity with Ex. W1. WW1 never worked for 240 days. He was not given any appointment or termination order. Sambaiah and Srinivas are not working with the Respondents. That the Petitioner worked only in 1997 and 1998. Ex. W2 is issued by their branch. Ex. M1 are details of payment made to the Petitioner.

10. It is argued by the Learned Counsel for the Petitioner that the Petitioner has worked continuously specially with R2 and in order to deprive him because he made a representation for regularization he was terminated and the said termination is illegal. He relies on the Judgement of the Hon'ble Bombay High Court reported in FLR 1987 (54) page 428 wherein it was held that, "Continuous service of 240 days - Failure of employer to produce muster roll before Labour Court or even before High Court in instant case to establish employee had not worked for 240 days in a year-inference-Order of reinstatement with full back wages does not call for interference.

11. The Respondent Counsel submits that WW1 himself relies on Ex. W1 and Ex. W2. Ex. W1 shows that during April, 1994 to May, 1997 he worked for 329 days and 235 days from October, 1997 to 1998. Hence, he is not entitled for any relief.

12. It may be noted that the Petitioner who examined himself as WW1 says between April, 1994 to May, 1997 that is three years one month he worked for 329 days and from October, 1997 to August, 1998 for 235 days continuously as per Ex. W2. Therefore, he himself relies on Ex. W1 and Ex. W2. It is not his case that he worked for more days and they have given certificate for less number of days. In fact MW1 deposed that WW1 worked on casual basis on daily wages for lunch room duties and setting of records etc MW2 deposed that WW1 worked on casual basis and he admits that he worked for 235 days during the period of one year, during the period of October, 1997 to August, 1998. So it may be seen that it is not the case of the Petitioner himself that he worked for 240 days continuously. Hence, the ends of justice will be met, if the following award is passed : "If and when any casual vacancy arises either with R1 or R2, the Petitioner shall be given preference over others who are juniors to him taking his seniority as April, 1994."

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me in the Open Court on this the 10th day of February, 2003.

E.ISMAIL, Presiding Officer

Appendix of evidence		
Witnesses examined for the Petitioner	Witnesses examined for the Respondent	R.C.C. Abmedkar Marg, Ghaziabad (U.P.)-201001.
WW1: Sri L. Venkateswarlu	MW1: Shri Md. Ameeruddin	... Workman
	MW2: Shri M. Mahipal	
Documents marked for the Petitioner		Versus
Ex.W1	Copy of service certificate dt. 2-2-1999	The General Manager, Banaras State Bank Ltd., S-20/52, A.K. Varuna, S.D. Bridge Cannt., Varanasi-221002.
Ex.W2	Copy of service certificate dt. 9-2-1999	... Management
Documents marked for the Respondent		
Ex.M1:	Copy of statement showing the working days of WW1 नई दिल्ली, 3 अप्रैल, 2003	AWARD

का. आ. 1284.——औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बनारस स्टेट बैंक लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट (संदर्भ संख्या आई. डी. नं. 56/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-2003 को प्राप्त हुआ था।

[सं. एल-12012/316/2001-आई. आर. (बी. I)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 3rd April, 2003

S.O. 1284.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. No. 56/2001) of the Cent. Govt. Indus. Tribunal, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Banaras State Bank Ltd. and their workmen, which was received by the Central Government on 2-4-2003.

[No. L-12012/316/2001-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

Presiding Officer : SHRI B. N. PANDEY

L.D. No. 56/2001

The District Secretary,
Bank Employees Unity Forum (U.P.)
C/o. Punjab National Bank,

R.C.C. Abmedkar Marg,
Ghaziabad (U.P.)-201001.

... Workman

The General Manager,
Banaras State Bank Ltd.,
S-20/52,
A.K. Varuna,
S.D. Bridge Cannt.,
Varanasi-221002.

... Management

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/316/2001/IR(B-I) dated 30-8-2001 has referred the following industrial dispute to this Tribunal for adjudication :

“Whether the action of the management of Banaras State Bank Ltd. in imposing penalty for reduction of basic pay by two stages w.e.f. 22-5-1999 as well as in transferring against Vth Bipartite Settlement dated 29-10-93 vide order dated 14-9-2000 of Shri D.K. Tandon is justified. If not, what relief the workman concerned is entitled?”

2. The workman moved an application in which he stated that he is not interested to contest the reference and desire to withdraw it. In view of the application dated 26-3-2003/28-3-2003. No dispute award is passed leaving the parties to bear their own costs. Award is given accordingly.

B. N. PANDEY, Presiding Officer

Dated: 28-3-2003

नई दिल्ली, 3 अप्रैल, 2003

का. आ. 1285.——औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रमन्यालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 2/41 ऑफ 1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-4-2003 को प्राप्त हुआ था।

[सं. एल-31012/19/97-आई. आर. (एम)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 3rd April, 2003

S.O. 1285.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/41 of 1998) of the Central Government Industrial Tribunal cum-Labour Court, No. 2, Mumbai as shown in the annexure in the Industrial Dispute between the employers in relation to

the management of Mumbai Port Trust and their workman, which was received by the Central Government on 3-4-2003.

[No. L-31012/19/97-IR (M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II MUMBAI**

Present

S. N. SAUNDANKAR
PRESIDING OFFICER

Reference No. C.G. I.T. -2/41 of 1998.

**Employers in Relation to the management of Mumbai
Port Trust**

Mumbai Port Trust
The Chairman,
Mumbai 400038

AND

Their Workmen
Shri Bhargav G. Kajrolkar
24, Konkan Niwas,
Khirade Compound,
Ganesh Nagar,
Bhandup (W)
Mumbai 400038.

Appearances :

For the Employer : Mr. M. B. Anchan, Advocate

For the Workmen : Mr. S. S. Chaubal Advocate

Mumbai, dated 16th January, 2003

AWARD-PART-II

By Interim Award dated the 23rd October, 2001 this Tribunal held that the domestic inquiry conducted against the workman Kajrolkar was as per the Principles of Natural Justice and the findings recorded by the inquiry officer are not perverse. It is settled legal position that if employees services are terminated after proper domestic inquiry held in accordance with Principles of Natural Justice and conclusions arrived at the inquiry are not perverse, the Industrial Tribunal is not entitled to consider the propriety and the correctness of the said conclusions therefore only point remains for the consideration of this Tribunal on the quantum of punishment. Workman Shri Kajrolkar was chargesheeted vide chargesheet dtd. 29-6-93 alleging that as a senior dresser in the hospital run by MBPT he had misbehaved with the female patient viz. Nirmala Vijay Kasbe when she had attended the Abtop Village dispensary for dressing her knees on 2-1-93 and thereafter. It is alleged

workman calling said Mrs. Kasbe in the dressing room on 8-1-93 touched her cheek, and on asking the same by Dr. Mrs. Kale, Medical Officer of the hospital, he had appologised and thereby had confessed the guilt. According to the management the above said misbehaviour amounts to misconduct under the Mumbai Port Trust Employees (Conduct) Regulations, 1976. It is contended that this misconduct being of grave nature, punishment of dismissal was adequate however workman was given lesser punishment of compulsory retirement so as to enable him to get all his retiral benefits. Workman denied that he committed misconduct and that punishment imposed was proportionate to the proved charges.

2. Since the inquiry held proper, the point remains as to whether the action of the management in terminating the services of workman by way of compulsory retirement is justified, in the light of the decision in *Sur Enamel and Stamping Works Ltd. Vs. Their Workmen 1963 II LLJ SC pg. 367.*

3. In that context workman filed affidavit in lieu of Examination in Chief (Exhibit-32) and closed oral evidence vide purshis (Exhibit-33). Administrative Officer (Medical Department) Mr. Phanse filed affidavit (Exhibit-35) on behalf of the management and closed evidence vide purshis (Exhibit-37).

4. Workman filed Written submissions (Ex-39) and the management (Exhibit-38). On perusing the written submissions and the record and hearing the counsels, I record my findings on the following issues for the reasons mentioned below :—

Issues	Findings
1. Whether the termination of service of Shri Bhargav Govind Kajrolkar by way of compulsory retirement is justified?	Yes.
2. If not, to what relief the workman is entitled to?	As per order below.

REASONS

5. So far the action of the management in imposing punishment of compulsory retirement, workman stated that considering his long service and his age and that he was a Senior dresser including the past record, punishment is disproportionate and therefore needs to be interfered by the Tribunal under section 11 A of the Industrial Disputes Act. As against this, Administrative Officer Mr. Phanse pointed out that the workman a senior dresser, misbehaved with the patient which is of a serious nature and that under the MBPT employees (Conduct) Regulations 1976 the punishment provided is of dismissal, however taking lenient view punishment of compulsory retirement was imposed therefore no interference is warranted.

6. The Learned Counsel for the workman Shri Chaubal submits that penalty imposed must be commensurate with the gravity of misconduct and that any penalty disproportionate to the gravity of misconduct would be violative of Article 14 of the Constitution. He has relied on *Ranjit Thakur V/s. Union of India (1987) 4 SCC 611 (AIR 1987 SC 2386)* wherein Their Lordships observed :

“The question of choice and quantum of punishment is within the jurisdiction of the Tribunal (Court Martial). But the sentence has to suit the offence and the offender. It should not be vindictive or unduly harsh, it should not be so disproportionate to the offence to shock the conscience and amount in itself to conclusive evidence of bias. The doctrine of proportionality, as a part of concept of judicial review would ensure that even on an aspect which is otherwise, within the exclusive power of Tribunal if the decision of the court even as to sentence is an outrageous defiance of logic, then sentence would not be immuned from correction. Irrationality and perversity are recognised grounds of judicial review.”

7. Mr. Anchani, the Learned Counsel for the management Mumbai Port Trust submitted that industrial adjudicators should be very careful before they interfere with the orders made in discharge of the managerial functions. He has placed reliance on *Syndicate Bank Ltd. V/s. Its Workmen 1966 I LLJ pg. 440* wherein Their Lordships observed :

“the industrial tribunal should be very careful before it interferes with the orders made by the banks in discharge of their Managerial functions and that findings of malafides should be reached by the tribunals only if there is sufficient and proper evidence in support of findings and that such findings should not be reached capriciously or on flimsy grounds.”

In *M/s. Hind Construction Engineering Co. Ltd. Vs. Their Workman AIR 1965 SC 917* and the decision of the Bombay High Court in *Ahmedmiya Ahmedji C/o. Bharatiya Kamgar Sena Vs. Indian Hume Pipe Co. Ltd. and Ors.* it observed :

“Error on the part of the management in imposing severe punishment can be corrected by the Tribunal.”

8. In so far as the action of the management is concerned, what is to be seen whether the punishment imposed is disproportionate to the charges proved, in the light of the past record. On perusal of the record it is seen, workman was penalised in the year 1978 by withholding two increments for claiming false overtime, was cautioned for his late attendance in 1986, was warned in 1992 for deserting the duty and was also penalised by withholding increments for two years in 1995 for negligence in the

performance of his duties and insubordination and that eventually for the misconduct he was compulsorily retired from the service w.e.f. 17-5-95. There is no challenge to the past record referred to above. In the case in hand, the proved charge against the workman is that he had molested a woman who had come to him as patient by touching her cheek. Their Lordships of Supreme Court in *Vishaka and Ors. V/s. State of Rajasthan and Ors. 1998(2) LLN 965* defined ‘sexual harassment’ as under :

“Sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as :

- physical contact and advances;
- a demand or request for sexual favours;
- sexually coloured remarks;
- showing pornography;
- any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts are committed in circumstances whereunder the victim of such conduct has a reasonable apprehension that in relation to the victimise employment or work whether she is drawing salary, or honorarium or voluntary, whether in Government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the workman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.”

In the case of *Apparel Export Promotion Council V/s. A. K. Chopra 1999 ICLR 597* Their Lordships dealing with similar act of misconduct on the part of male employee towards a female employee, after considering the definition of sexual intercourse as above, observed that “sexual harassment of female in the place of work is incompatible of the dignity and honour of the female and needs to be eliminated and there can be no compromise with such violations,..... Such cases are required to be dealt with great sensitivity. Any lenient action in such case is bound to have demoralising effect on working women.”

9. In the case in hand, for the proved charge of sexual harassment punishment of compulsory retirement was imposed upon the workman i.e. lesser punishment to dismissal for the misconduct as laid down under the service rules. Therefore considering the pros and cons of the matter

in the light of the rulings cited and the past record discussed supra to my view, punishment imposed does not warrant interference and in this context action of the management of compulsorily retiring the workman is fully justified and consequently workman is not entitled to any reliefs. Issues are answered accordingly and hence the order :—

ORDER

The action of the management of termination of services of Shri Bhargav Govind Kajrolkar by way of compulsory retirement by the management of Mumbai Port Trust Mumbai is legal and justified.

S.N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 4 अप्रैल, 2003

का. आ. 1286.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ के पंचाट (संदर्भ संख्या 126/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-4-2003 को प्राप्त हुआ था ।

[सं. एल-40012/104/98-आई. आर.(डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 4th April, 2003

S.O. 1286.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 126/99) of the Central Govt. Industrial Tribunal/Labour Court Chandigarh now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 4-4-2003.

[No. L-40012/104/98-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHANDIGARH

Presiding Officer : SHRI S.M. GOEL

Case No. I.D. 126/99

Ram Surat son of Devi Parshad

C/o B.R. Prabhakar
63-C, Kailash Nagar,
Model Town,
Ambala

... Applicant

Versus

The Chief General Manager,
Telecom,
Punjab Circle, Sector-34,
Chandigarh.

.....Respondent

APPEARANCES

FOR THE WORKMAN : Shri Dhani Ram

FOR THE MANAGEMENT : Shri G.C. Babbar

AWARD

(Passed on 20-02-2003)

The Central Government vide notification No. L-40012/104/98/IR(DU) dated 6th of May, 1999 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the Chief General Manager, Telecom, Punjab Circle, Sector 34, Chandigarh in terminating the services of Shri Ram Surat son of Shri Devi Parshad is legal and justified? If not, to what relief the workman concerned is entitled?”

2. It is pleaded in the claim statement by the workman that he was employed as Mali by the management on daily wage basis for the period from March 1989 to May 1995 and his services were terminated by the management without assigning any reasons and no compensation, was paid to him and no pay in lieu of notice was given. Thus the management has violated the mandatory provisions of Section 25-F of the I.D. Act 1947. The workman has thus prayed that he be reinstated in service with full backwages and seniority etc.

3. In the written statement the management has admitted that the workman was employed on casual basis in the office of the management while the office was located at Ambala. It is further pleaded that his services were disengaged as no longer required on 31-5-1995. He was not entitled to any notice as he was engaged as mali on need basis. The management has also given the details of the number of working days put in by the workman and he has not completed 240 days during one calendar year. The management prayed for the rejection of the reference.

4. In evidence the applicant filed his affidavit Ex. W1 and appeared for cross-examination. The management produced Shri B.M. Gupta as MW1 who has also filed his affidavit Ex. M1 and documents Ex M2 and M3.

5. I have heard the learned representative of the workman and the learned counsel for the management at length and perused the entire record and evidence on the file. The learned representative of the workman has argued

that the workman has put in 183 days of service with the management and 36 days of rest were not included in the number of working days of the workman. He has argued that the workman has put in 219 days of service with the management. The management deliberately did not allow the workman to complete 240 days of service and this action of the management is covered under the unfair labour practice and thus the workman is entitled for reinstatement. For his arguments he has referred the case law reported in F.L.R. (65) page 95 (P&H) Kapurthala Central Co-operative Bank Ltd. Vs. Labour Court Jalandhar. On the other hand the learned counsel for the management has argued that since the workman has not put in mandatory period of 240 days of service in one calander year, therefore, the workman was not given any retrenchment compensation and notice etc. The services of the workman were not required as the office from Ambala was shifted to Chandigarh and there was no need for the work of Mali, and the case law referred to by the workman's rep. (Supra) is not applicable on the facts and circumstances of the present case. I have gone through the submissions of learned rep. of the parties. It is admitted position that the workman has not completed 240 days of service in a calander year immediately before his termination i.e. 31-5-1995. It is also admitted fact that the office was shifted from Ambala to Chandigarh and the workman was disengaged and was not engaged for chandigarh office. To my mind since the workman has not put in required 240 days of service in one calander year, the management was not required to pay retrenchment compensation and notice or notice pay. The judgement of the Hon'ble High Court cited by the learned representative of the workman is not applicable in the facts and circumstances of the present case as in the case in hand, the management has shifted its office from Ambala to Chandigarh and there was no need at the Chandigarh office and the management has not recruited any person in place of the workman.

Thus it is held that it is not an unfair labour practice on the part of the management. Therefore, I find no merit in the present reference and the same is returned against the workman. Central Government be informed.

Chandigarh

S.M GOEL, Presiding Officer.

20-2-2003

नई दिल्ली, 4 अप्रैल, 2003

का. आ. 1287.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. बी. एम. बी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण

चंडीगढ़ के पंचाट (संदर्भ संख्या 38/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-4-2003 को प्राप्त हुआ था।

[सं. एल-42012/173/92-आई. आर. (डी. यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 4th April, 2003

S.O. 1287.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/94) of the Central Govt. Industrial Tribunal/Labour Court Chandigarh now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of B.B.M.B. and their workmen which was, received by the Central Government on 4-4-2003.

[No. L-42012/173/92-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL

TRIBUNAL-CUM-LABOUR COURT
CHANDIGARH

Presiding Officer :

Shri S.M.GOEI

Case No. ID 38/94

Sh. Karnial Singh S/o Sh. Deep Chand
Village & Post Office Bhanu Kheri,
Distt. Ambala.

.....Applicant

V/s

Executive Engineer, O&M Division,
Bakra Beas Management Board,
Dhulkot, Distt. Ambala.

...Respondents

Representatives :

For the workman : Sh. R. K. Singh

For the management : Ms Jyoti Kaushal

AWARD

(Passed on 13-3-2003)

The Central Govt. Ministry of Labour vide Notification No. L-42012/173/92-I.R. (D.U.) dated 29th April 1994 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Bhakra Beas Management Board, Dhulkot, Ambala in terminating the services of

Sh. Karnail Singh w.e.f. 25-7-85 is justified and legal? If not, what relief he is entitled to and from what date?"

2. In the claim statement it is pleaded by the applicant that he was appointed as workcharge T. mate by Executive Engineer BBMB Dhulkot on 27-11-1984 and his services were retrenched on 25-7-1985 alongwith other co-workers, by giving 10 days notice. It is further pleaded that juniors to workman were retained in service whose names are Manjit Singh and Joginder Singh and the principle of 'First Come last Go' has not been adopted by the management. It is pleaded that other co-workers Gurdev Singh, Rameshwar Dass, Yash Pal, Harish Kumar, Raghbir Singh, Baljeet Singh and Ram have been reinstated and applicant was not reinstated as he was not party to the Award passed in favour of the other co-workers. It is therefore, prayed that the workman be reinstated in service with full back wages and other benefits alongwith 24% interest on backwages.

3. In the written statement the management pleaded that the services of the workman were dispensed with after giving him 10 days notice as required under Clause 21 (ii) of workcharge standing order and none of the junior was retained in service and principle of 'First come Last go' was fully observed while terminating the services of the workman. It is further stated that the award in favour of the co-workers was pronounced and the applicant was not covered in that case of the applicant was different. It is also pleaded that there is no merit in the present reference and the workman is not entitled for reinstatement.

4. The applicant filed replication reiterating the claim made in the claim statement.

5. In evidence the respective parties filed their affidavits alongwith documents. The workman filed his affidavit Ex. W1 and he was cross-examined by the rep. of the management. The management filed the affidavit Ex. M1 of S. C. Mangal as MW1 and also documents Ex. M2 to M13 and the witness was cross-examined also.

6. I have heard the learned representatives of the parties and have gone through the evidence and record of the case.

7. The learned representatives of the workman has argued that the management has served upon the workman only 10 days notice and 30 days notice has to be given by the management before dispensing the services of the workman. The learned rep. of the workman further argued that juniors to workman namely Manjit Singh and Joginder Singh were retained in service and principle of 'First come

Last go' was not adhered to by the management. On the other hand, the learned representative of the management has argued that no junior has been retained by the management and notice of 10 days was sufficient as provided under the Standing Orders. The rep. of the management also argued that there is no violation of Section 25-H of the I.D. Act 1947. It is further argued by the rep. of the management that the workman in his claim statement has given the names of Manjit Singh and Joginder Singh as his juniors but in the affidavit Ex. W1 no date of appointment of these two persons have been given. It is not proved by the workman through any evidence that these two persons were juniors to the workman. No question from the witness of the management has been asked about these two persons rather the names of other persons are there as Jasminde Singh and Sighu Ram have been stated to be junior to the workman. Thus it is not proved by the workman that any person junior to the workman has been employed by the management.

8. The rep. of the management has also argued that the appointment of the workman was for a specific project and on completion of the project the services of the workman were dispensed with in terms of the appointment letter Ex. M2. The management also proved on the record the documents Ex M3 the joining report in terms of the appointment letter and notice Ex. M4 and other documents Ex. M5 to M14 and it is argued by the learned representative on behalf of the management that the services of all the workman working on the project were dispensed with on the completion of the Project and the provision of Section 25F were complied with at the time of termination of the services of the workman. The rep. of the management has also placed before me the Award passed by this Tribunal in I.D. No. 80/90 regarding the similar dispute. The above mentioned case was decided on 3-2-2002 by this Tribunal and in that case it is held by the Tribunal that being specific appointment it is covered under exclusion clause (bb) of 2 (oo) of the I.D. Act 1947. I have gone through the entire case. The present case in hand is also similar to that case decided by this Tribunal on 3-1-2002 and that workman was posted in the same division and for the same period. Thus in the circumstances of the present case in hand it is held that the management has not violated any of the provisions of the I.D. Act 1947 and the workman is not entitled to any relief in view of the facts of the case. Thus there is no merit in the present reference and the same is returned against the workman. Central Govt. be informed.

Chandigarh.

13-3-2003

S.M. GOEL, Presiding Officer

नई दिल्ली, 4 अप्रैल, 2003

का. आ. 1288.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचाट (संदर्भ संख्या 107/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-4-2003 को प्राप्त हुआ था।

[सं. एल-42012/195/90-आई.आर(डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 4th April, 2003

S.O. 1288.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 107/91) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BBMB and their workman, which was received by the Central Government on 4-4-2003.

[No. L-42012/195/90-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHANDIGARH

PRESIDING OFFICER

SHRI S.M. GOEL

Case No. ID 107/91

General Secretary, Nangal Bhakra Mazdoor Sangh, Nangal Township, Distt. Ropar.

....Applicant

Vs

Chief Engineer, Bhakra Beas Management Board Nangal Township Distt. Ropar.

.....Respondent.

REPRESENTATIVES

For the workman : Sh. R. K. Singh

For the Management : Sh. R. C. Sharda &
Sh. R. C. Attri

AWARD

(Passed on 19-2-2003)

The Central Govt. Ministry of Labour vide Notification No. L-42012/195/90-I.R.(D.U.) dated 14th August, 1991 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the Chief Engineer, Bhakra Beas Management Board, Nangal

Township in terminating the services of Sh. Swaran Chand, S/o Sh. Datta Ram w.e.f. 17-6-89 and changing the mode of payment of wages as well as reduction in his wages w.e.f. 16-10-88 are justified? If not, what relief he is entitled to and from what date?”

2. Brief facts of the case according to the workman are that he was employed as skilled mazdoor on daily wages in Bhakra Mechanical Division w.e.f. 1-5-1988 and was promoted as helper in the pay scale of Rs.300-430 plus usual allowances since 30-7-1988. It is further pleaded by the workman that the workman was reverted to the post of skilled mazdoor on 26-10-88 without affording any opportunity of being heard. He was allowed to work on daily wages w.e.f. 27-10-1988 till 17-6-1989 and his services were terminated by the oral order of Executive Engineer of the Bhakra Mechanical Division, without payment of any retrenchment compensation and notice or notice pay in lieu thereof. Thus the management has violated the mandatory provision of Section 25-F of the I.D. Act 1947. It is further pleaded that the management called him for re-employment w.e.f. 30-10-1989 and accordingly he joined the duty w.e.f. 5-11-1989. He has further pleaded that he has completed more than 240 days of service preceding to the date of termination. He has thus, prayed that management be directed to treat him as helper/regular w.e.f. 16-10-1988 and setaside the termination dated 17-6-1989 with heavy costs.

3. In the written statement the management has pleaded that workman was employed in Transport & Heavy Earth Moving Sub Division of Bhakra Mechanical Division w.e.f. 4-6-1988 and remained employed up to 29-7-1988. Later on he was appointed as helper for 89 days alongwith other workmen and he was not given extension because 39 workmen senior to the workman were found to be surplus and were to be adjusted in other division. He was therefore, for this reasons again employed on daily wage basis w.e.f. 28-10-1988. The management further pleaded that workman remained employed on daily wages up to 16-6-1989 and w.e.f. 17-5-89 the workman absented himself from duty and notice was given to the workman through registered cover which was received back undelivered. Retrenchment compensation was offered which was not accepted by the workman. The petitioner was recalled for work during the months of i.e. 11/89 and 12/89 and he was again recalled for work w.e.f. 13-9-1991 and is still in the service of the management. It is further pleaded that reduction in wages were un-avoidable because due to Adjustment of surplus workman with the division the workman was reverted. Thus, the workman is not entitled for any relief and the reference deserves rejection.

4. Rejoinder was also filed by the workman reiterating the claim made in the claim statement.

5. In support of their respective pleadings, the parties filed their respective affidavits and documents. The

witnesses of the parties were examined and cross-examined by the respective parties.

6. I have heard the learned representatives of the parties and have gone through the evidence and record of the case.

7. The learned representative of the workman has vehemently argued that the workman had completed more than 240 days of service as on 17-6-1989 and admittedly the notice was given by the management through registered A.D. on 30-6-1989 and retrenchment compensation was also offered much later stage on 16-10-1990 which is clear violation of the mandatory provisions of Section 25-F of the I.D. Act 1947 and the workman is entitled for reinstatement with backwages in view of the position explained above. It is admitted case of the management that notice was given to the workman on 30-6-1989 and retrenchment compensation amounting to Rs. 285 was offered after about one year i.e. 16-10-1990 which is clear violation of the mandatory provisions of Section 25-F. Notice and retrenchment compensation is precondition to retrenchment. The representative of the management has argued that the workman left the service on his own accord on w.e.f. 17-6-1989 and it is the workman who has not come on duty and his services were never terminated and the workman himself abandoned the job. But this plea of the management can not be accepted as the management itself serving the notice dated 30-6-1989. Thus there is gain saying that the workman left the job on his own accord. Moreover the workman has already completed more than 240 days of service at the alleged abandoning the job. Thus the management has not held any enquiry against the workman for his absence and in absence of any enquiry or public notice, the workman can not be considered as having abandoned the job.

8. Regarding the second issue regarding reduction in wages w.e.f. 16-10-1988, the rep. of the management has argued that 39 workers senior to the workman were surplus with Workshop Division and these workman were to be adjusted in other divisions and due to this reasons, the workman was reverted and employed on daily wages and this reduction in wages was unavoidable. On the other hand the learned representative of the workman has argued reduction in wages is a change of service conditions and the management has not served notice to the workman U/S 9-A of the I.D. Act 1947. To my mind, as the management has to adjust 39 workmen who were surplus and the workman was reverted just to accomodate the other 39 persons senior to the workman and this reduction in wages is beyond the control of the management. Thus the workman is not entitled to the same wages as he was receiving on 16-10-1988.

9. In view of the above discussion, the workman is entitled for reinstatement in service with back wages for the period from 17-6-1999 till he was re-employed in the

year 1991 with continuity of service. He is not entitled to the wages of promoted post and his second claim is denied. The reference is answered accordingly. Central Govt. be informed.

Chandigarh
19-2-2003

S.M. GOEL, Presiding Officer

नई दिल्ली, 4 अप्रैल, 2003

का. आ. 1289.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण चण्डीगढ़ के पंचाट (संदर्भ संख्या 152/89) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-4-2003 को प्राप्त हुआ था।

[सं. एल-42011/20/88-डी.2(बी)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 4th April, 2003

S.O. 1289.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 152/89) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BBMB and their workman, which was received by the Central Government on 4-4-2003.

[No. L-42011/20/88-D2(B)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT CHANDIGARH**

PRESIDING OFFICER **SHRI S.M. GOEL**
Case No. ID 152/89

General Secretary, B.B.M.B Karamchari Sangh, 4/D D,
Nangal Township-140124.

.....Applicant

V/s

Chairman, Bhakra Beas Management Board, Sector 35-B,
Chandigarh.

.....Respondent.

REPRESENTATIVES

For the workman : None.

For the Management : Ms. Neeru Chadha

AWARD

(Passed on 19-2-2003)

The Central Govt. Ministry of Labour vide Notification No. L-42011/20/88-D.2(B) dated 22nd September 1989 has referred the following dispute to this Tribunal for adjudication :

“Whether the following demands of BBM Karamchari Sangh are justified? If so, what relief the workmen concerned are entitled to?”

1. The work-charged staff in Nangal Workshop Central Stores and other divisions who have completed 5 years in W/C cadre should be regularised?
2. Daily rated staff on completion of 240 days should be regularised?”
2. None has put up appearance on behalf of the Union today. However Shri S.P. Shah, the authorised representative of the workman has made the statement on 6-3-1995 that he give up the claim No.1 in the reference. Thus after that only demand No.2 of the Union was agitated by the parties. During the course of arguments, the learned representative of the management has stated at the bar that all daily rated staff have been regularised and there exists no industrial dispute and reference may be returned as infructuous. In view of the situation, since there exist no dispute between the parties, the present reference is returned to the Ministry as No dispute award. Central Govt. be informed.

Chandigarh
19-2-2003

S. M. GOEL, Presiding Officer

नई दिल्ली, 4 अप्रैल, 2003

का. आ. 1290.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आमी स्कूल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 194/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-4-2003 को प्राप्त हुआ था।

[सं. एल-14012/6/2000-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 4th April, 2003

S.O. 1290.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 194/2000) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of Army School and their workman, which was received by the Central Government on 4-4-2003.

[No. L-14012/6/2000-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

PRESIDING OFFICER

SHRIS. M. GOEL

Case No. ID 194/2k

Smt. Salinder Kaur w/o Sh. Harbans Lal
Vill. Bishanpur Jattan. Teh. & Distt. Kapurthala 144601

..Applicant

V/s

The Principal, Army School, Jalandhar Road, Kapurthala 144601

.....Respondent

REPRESENTATIVES

For the Workman : None.

For the Management : Shri H. C. Arora

AWARD

(Passed on 14th February 2003)

The Central Govt. Ministry of Labour vide Notification No. L-14012/6/2000/IR(DU) dated 30th May 2000 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Army School Kapurthala in terminating the services of Smt. Salinder Kaur is legal and justified? If not, to what relief the concerned workman is entitled and from which date?”

2. None has put up appearance on behalf of the workman. It appears that the workman is not interested to pursue with the present reference. In view of the above the present reference is returned to the Ministry for want of prosecution. Central Govt. be informed.

Chandigarh
Dated : 14-2-2003.

S.M. GOEL, Presiding Officer.

नई दिल्ली, 4 अप्रैल, 2003

का. आ. 1291.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण,

चण्डीगढ़ के पंचाट (संदर्भ संख्या 122/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-4-2003 को प्राप्त हुआ था।

[सं. एल-42012/292/90-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 4th April, 2003

S.O. 1291.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 122/91) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BBMB and their workman, which was received by the Central Government on 4-4-2003.

[No. L-42012/292/90-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, CHANDIGARH

PRESIDING OFFICER SHRI S. M. GOEL

Case No. ID 122/91

Sh. Mehnga Ram; General Secretary, Nangal Bhakra Workers Union, Kilan Area Nangal Township, Distt. Ropar

...Applicant

V/s

Chief Engineer, B.B.M.B., Nangal Township, Distt. Ropar

...Respondent

REPRESENTATIVES

For the Workman : Shri Mehnga Ram

For the Management : Shri R. C. Atri

AWARD

(Passed on 5-3-2003)

The Central Govt. Ministry of Labour vide Notification No. L-42012/292/90-IR(DU) dated Nil has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the B.B.M.B. Nangal Township in terminating the services of Shri Resham Singh, w.e.f. 29-1-90 is justified? If not, to what relief the concerned workman entitled?”

2. In the claim statement it is pleaded that the workman worked in BC & Township Division Nangal w.e.f. 5-5-88 to 29-1-1990 for 185 days. The workman filed a CWP No. 13850/90 before the Hon’ble High Court for his

regularisation upon completion of 240 days of service and in view of the judgement in Piara Singh’s case he is entitled for regularisation his services were terminated vide order dated 28-1-90 and at the time of his termination no retrenchment compensation and notice or notice pay was given. Thus the management has violated the mandatory provisions of Section 25-F of the I.D. Act 1947. The workman has prayed that he be reinstated in service with full backwages and other benefits.

3. In written statement preliminary objection has been taken that workman was not entitled for reinstatement in view of the Judgement of the Hon’ble H.P. High Court in view of the policy framed in pursuance of the directions of the Hon’ble High Court in the case of Ram Piara’s case. On merits it is pleaded that workman worked in the Township Division for 100 days from 5/88 to 8/88 and from 4/89 to 10/89 for 185 days. It is further pleaded that as the work on which his services were required in the field was likely to be completed by the end of October 1989, the workman filed the writ petition and obtained stay order. By virtue of that stay order the workman was allowed to work up to 1/90. It is thus pleaded that the workman can not be given the benefits of service from 11/89 to 1/90 for 83 days. Thus the workman has not completed 240 days of service in one calendar year and provisions of Section 25-F have not been violated. Thus the workman is not entitled for any relief and prayed for the rejection of the reference.

4. Replication was also filed by the workman reiterating the claim made in the claim petition.

5. Both the parties in evidence filed their respective affidavits and documents and witnesses of parties were examined and cross-examined.

6. I have heard the learned representatives of the parties and have gone through the evidence and record of the case. The learned rep. of the management has argued that benefits of 83 days of work from 11/89 to 1/90 can not be given as for this period the workman worked with the management in pursuance of the orders of the Hon’ble Punjab & Haryana High Court for maintaining status quo. For his arguments he has referred me to the case law of Punjab & Haryana High Court reported in 2 (LLN) 1996 735 in which it has been held by the Hon’ble High Court that the period during which the workman was working under the orders of the Court can not be taken into account for counting the stipulated period of 240 days. On the other hand the learned rep. of the workman has argued that since the workman has completed more than 240 days of service though it is under the orders of the Hon’ble High Court, the workman is entitled for reinstatement. I have gone through the contentions of the learned representatives. In my considered opinion, and following the judgment of the Hon’ble Punjab & Haryana High Court in the case reported above, the period of 83 days can not be counted towards the completion of 240 days. It is admitted case of the parties

6. I have heard the learned counsel for the parties and have also gone through the written arguments submitted by both the parties. It is admitted fact that the workman worked as Branch Postmaster Dhukkot from 7-7-1987 to 1-7-1988 and thus had completed more than 240 days of service in one calendar year. The main contention of the management is that the applicant is not a workman under the provisions of the I.D. Act 1947 and the provisions of I.D. Act are not applicable as he is governed by the Extra Departmental Agents (Conduct and Service) Rules 1964 and EDAs are not the workman. For his arguments he has relied on the judgment of the Hon'ble Supreme Court in the case of Sub Divisional Inspector of Post Vaikam and Ors. etc. Vs. Theyyam Juseph etc. reported in 1996 (JT) (2) S.C. 457 in which it has been held that Extra Departmental Agent are not workman under the I.D. Act and provisions of I.D. Act are not applicable. I have gone through the judgment of the Hon'ble Supreme Court carefully. The Hon'ble Supreme Court has categorically held that EDAs are civil servant regulated by the EDA (Conduct Rules) and they not belong to the category of workman attracting the provisions of the I.D. Act. Thus following the judgment of the Hon'ble Supreme Court, it is held that the applicant is not a 'workman' under the I.D. Act 1947 and the reference is not maintainable. Therefore, the reference is answered against the workman. Central Govt. be informed.

Chandigarh.
12-3-2003

S. M. GOEL, Presiding Officer

नई दिल्ली, 4 अप्रैल, 2003

का. आ. 1293.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचाट (संदर्भ संख्या 163/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-4-2003 को प्राप्त हुआ था।

[सं. एल-42012/17/90-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 4th April, 2003

S.O. 1293.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 163/90) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BBMB and their workman, which was received by the Central Government on 4-4-2003.

[No. L-42012/17/90-IR.(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL— CUM-LABOUR COURT—CHANDIGARH

Presiding Officer	Shri S.M. Goel
Case No. ID 163/90	
General Secretary, Nangal Bhakra Workers Union	
Kilan Area Nangal Township, Distt. Ropar (Pb.)-140124.	
.....Applicant	

V/s

Chief Engineer, B.B. M.B. Bhakra Dam,
Nangal Township, Distt, Ropar (Pb.)-140124.

REPRESENTATIVES

For the workman	:	Sh. Mehanga Ram
For the management	:	Sh. R.C. Atri

AWARD

(Passed on 5-3-2003)

The Central Govt. Ministry of Labour vide Notification No. L-42012/17/90-I.R.(D.U) dated 7th November, 1990 has referred the following dispute to this Tribunal for adjudication.

“Whether the action of the management of BBMB rep. through the Chief Engineer, Bhakra Electric Division, Nangal Township of BBMB in terminating the services of Shri Ravinder Singh, Electrician w.e.f. 1-2-87 to 15-4-88 is justified? If not, to what relief the workman concerned is entitled to and from what date?”

2. During the course of arguments, the rep. of the workman has made a statement that he wants to withdraw the present reference with a liberty to file fresh and prayed that the reference be allowed to be withdrawn. In view of the statement of the rep. of the workman, the reference is returned as withdrawn with a liberty to raise the demand a fresh. Central Govt. be informed.

Chandigarh
Dated: 5-3-2003.

नई दिल्ली, 4 अप्रैल, 2003

का. आ. 1294.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 97/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-4-2003 को प्राप्त हुआ था।

[सं. एल-14012/32/2002-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 4th April, 2003

S.O. 1294.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 97/2002) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Garrison Engineer and their workman, which was received by the Central Government on 4-4-2003.

[No. L-14012/32/2002-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 31st March, 2003

PRESENT: K. Karthikeyan, Presiding Officer

Industrial Dispute No. 97/2002

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri C. Janakiraman and the Management of the Garrison Engineer, Naval Air Station, Military Engineering Service.]

BETWEEN:

Sri C. Janakiraman : I Party/Workman

AND

The Garrison Engineers, : II Party/Management
Naval Air Station, Military
Engineering Service,
INS Rajali.

APPEARANCE:

For the Workman : Unrepresented

For the Management : Sri K.M. Venugopal
Addl. CGSC

The Govt. of India, Ministry of Labour in exercise of power conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the following Industrial Dispute

for adjudication vide Order No. L-14012/32/2002/IR (DU) dated 21-10-2002 :—

“Whether the action of the Garrison Engineer, Military Engineering Service, INS Rajali, Arakkonam in terminating the services of the workman Shri C. Janakiraman who has been engaged through TNR Enterprises for operation and maintenance of DG sets with effect from 2-2-2000 is justified?” If, not to what relief the workman is entitled?”

2. On receipt of the order of reference from the Government of India, Ministry of Labour, this case has been taken on file as I.D. No. 97/2002 and notices were sent to the parties to the dispute by registered post, with a direction to appear before this Tribunal on 10-12-2002 to file their respective Claim Statement and Counter Statement and to prosecute this case further. On 10-12-2002 the I Party/Workman alone present and prays for time to file Claim Statement. On the subsequent hearing, the counsel for the II Party/Management entered appearance and on the request of the Petitioner further time was granted thrice for filing his Claim Statement. In spite of that the I Party/Petitioner has not chosen to appear before this Tribunal and file Claim Statement. Then the II Party/Management has been directed to file their statement of objection. In spite of the case has been adjourned to four times the II Party/Management has not come forward to file the statement of objection for the dispute raised by the I Party/Petitioner as referred to in the order of reference by the Government of India.

3. When the matter was taken up as last chance for adjudicating the Industrial Dispute between the parties as referred to in the order of reference, neither the party to this dispute has come forward to put forth their respective contention in respect of the referred industrial dispute for adjudication. Since already three months time had been elapsed after the appearance of either party has been made before this Tribunal for this dispute and in spite of very many chances have been given to both the parties to put forth their contention, they have failed to do so. Hence, this Tribunal has no other option but to decide the matter with the available materials.

4. As the parties to this dispute have not come forward to put forth their respective contentions, this Tribunal is of the opinion that there is no subsisting dispute between the parties as referred to in the order of reference for adjudication by this Tribunal. Hence, an award is passed as the reference is closed.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 31st March, 2003.)

K. KARTHIKEYAN, Presiding Officer

नई दिल्ली, 4 अप्रैल, 2003

का. आ. 1295.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, चंडीगढ़ के पंचाट (संदर्भ संख्या 165/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-4-2003 को प्राप्त हुआ था।

[सं. एल-42012/19/90-आई. आर. (डी.यू.)]
कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 4th April, 2003

S. O. 1295.—In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No. 165/90) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of BBMB and their workman, which was received by the Central Government on 4-4-2003.

[No. L-42012/19/90-IR(DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

PRESIDING OFFICER :

SHRIS. M. GOEL

Case No. ID 165/90

General Secretary, Nangal Bhakra Workers Union,
Kilan Area, Nangal Township, Distt. Ropar-140124.

Applicant

V/s.

Chief Engineer, B.B.M.B. Bhakra Dam, Nangal Township,
Distt. Ropar (Pb.)-140124.

... Respondent

REPRESENTATIVES

For the workman : Sh. Mehnga Ram

For the management : Sh. R.C. Atri

AWARD

(Passed on 5-3-2003)

The Central Govt. Ministry of Labour vide Notification No. L-42012/19/90-I.R. (D.U.) dated 9th November, 1990 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of BBMB i.e. through the Chief Engineer, Water Supply Sub-division, Township Div. of BBMB in terminating the services of Shri Karam Singh, Beldar w.e.f. 16-1-87 to 30-6-88 is justified ? If not, to what relief the concerned workman is entitled ?”

2. During the course of arguments, the rep. of the man has made a statement that he wants to withdraw

the present reference with a liberty to file fresh and prayed that the reference be allowed to be withdrawn. In view of the statement of the rep. of the workman, the reference is returned as withdrawn with a liberty to raise the demand afresh. Central Govt. be informed.

Chandigarh

S. M. GOEL, Presiding Officer

5-3-2003

नई दिल्ली, 4 अप्रैल, 2003

का. आ. 1296.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, चंडीगढ़ के पंचाट (संदर्भ संख्या आई डी 35/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-4-2003 को प्राप्त हुआ था।

[सं. एल-12012/126/97-आई. आर. (बी-1)]
अजय कुमार, डैस्क अधिकारी

New Delhi, the 4th April, 2003

S.O. 1296.—In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. 35/98) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 3-4-2003.

[No. L-12012/126/97-IR(B. 1)]
AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

PRESIDING OFFICER SHRI S. M. GOEL

Case No. ID 35/98

The General Secretary, S.B.I. Staff Congress,
1304, Sector 23-B, Chandigarh-160001.

... Applicant

V/s

The Asstt. General Manager, State Bank of India
Region-V, Zonal Office Punjab, Sector-17,
Chandigarh-160001.

... Respondent

REPRESENTATIVES

For the workman : Sh. O. P. Batra
For the management : Sh. P. K. Gupta

AWARD

(Passed on 18-2-2003)

The Central Government Ministry of Labour vide Notification No. L-12012/126/97-IR(B. 1) dated 17th February 1990 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the State Bank of India in terminating the services of Shri Suresh Kumar w.e.f.

4-10-96 is illegal and justified? If not to what relief the concerned workman is entitled to and from what date?"

2. The workman in the claim statement pleaded that he was appointed by the Management as canteen boy with combined designation w.e.f. 1-7-1994 at Mohali Branch and his work and conduct was satisfactory. It is further pleaded that though he was designated as a caneten boy but he was also performing the duties of messenger cum-water boy-cum-cash coolie. His services were terminated by the Mohali Branch w.e.f. 4-10-1996 although he had put in more than 240 days of service with the Management yet at the time of termination, no notice, notice pay or compensation was paid. He pleaded that the management has violated the mandatory provisions of Industrial Disputes Act 1947. He has prayed that he be reinstated in service with full backwages and with all consequential benefits.

3. The management in written statement has taken the preliminary objection that the petitioner is not a 'workman' within the meaning of Section (s) of the I.D. Act 1947 as there is no privity of contract of employment between the bank and the petitioner. On Merits it is admitted that the petitioner was employed as Canteen Boy by the Local Implementation Committee in the Branch and he was not appointed by the bank in any capacity whatsoever. The staff canteen being run by the Local Implementation Committee as per the scheme of the bank and the petitioner was being paid Rs. 500/- by the said Local Implementation Committee and not by the bank. It is further pleaded that petitioner was disengaged by the Local Implementation Committee for the reasons known to them and bank is not connected with the said committee in any manner. The petitioner never worked with the bank, thus, there is no question of violation of Section 25-F of the I.D. Act 1947. The management prayed for the rejection of the reference.

4. Replication was also filed by the Petitioner reiterating the claim made in the claim statement.

5. Both the parties in suport of their respective pleas filed their affidavits and documents and cross-examined the witnesses of the other parties.

6. I have heard the learned representatives of the parties. Learned counsel for the workman has vehemently argued that from the documents Ex. W2 to W12 it is crystal clear that the applicant was employed by the State Bank of India and therefore, the Bank can not terminate the services of the workman without any rhyme and reasons. He has argued that documents Ex. W2 to W4 clearly show that the workman was paid by the State Bank of India. He has also drawn my attention to W5 and W6 which are the photocopies of the cheques. He has further argued that witness of the management has admitted in cross-examination that the Branch Manager of the Bank also works as President of the Local Implementation Committee and therefore, admitted the employment of the petitioner by the bank because his salary is paid by the Bank. He has also argued that the workman was a water boy and therefore, he was the employee of the bank. On the other hand, the learned representative of the bank has argued that the

applicant was not working as water boy instead he was canteen boy as already stated by the applicant in para 3 of the claim statement wherein he stated that he was designated as canteen boy but he performed the duties of messenger-cum-water boy-cum-cash coolie. So far as performing the duties of messenger-cum-water boy-cum-cash coolie is concerned, it is not established by any documentary evidence on record. Learned representative of the Bank has also argued that Canteen Boy is not at the strength of the State Bank of India. For his arguments, he has also relied on 2000(85) F.L.R. page 653. In this case, the Hon'ble Supreme Court has held that the employees of the canteens which are run at various branches by the Local Implementation Committees as per the welfare scheme framed by the State Bank of India would not become employees of the bank as the bank is not having any statutory or contractual obligation or obligation arising under the Award to run such canteens. Hon'ble Supreme Court has further held that the scheme framed by the bank is crystal clear. It provides that the bank shall promote certain welfare activities for the benefit of its employees. One of such welfare activities is promotion of canteen facility. There is vast difference between promotion and providing. It was also observed that the bank is not employing the canteen workers. The bank is not supervising or controlling the work or the details regarding the canteen or its employees appointed by the Local Implementation Committee. At the most it can be inferred that the bank has an obligation to promote running of canteens at its branches as a part of staff welfare activities.

7. I have gone through the case law referred to by the learned representative of the Management. The learned counsel for the workman has not shown any law contrary to the case law referred to by the learned representative of the Bank. The photocopies of the cheques Ex. W5 and W6 clearly show that the cheques are issued by the Local Implementation Committee. Thus it is clearly established that the workman was the employee of the Canteen run by the Local Implementation Committee which is one of the welfare activities of the bank. The workman was not at the strength of the State Bank of India. I am, therefore, of the considered opinion that the workman was not entitled to any reinstatement sought by him. The reference, is therefore, answered against the workman. The Central Govt. be informed.

Chandigarh.

18-2-2003

S. M. GOEL, Presiding Officer

नई दिल्ली, 4 अप्रैल, 2003

का.आ. 1297.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कपूरथला-फिरोजपुर क्षेत्रीय ग्रामीण बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण, चंडीगढ़ के पचाट (संदर्भ संख्या आई. डी. नं. 107/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-4-2003 को प्राप्त हुआ था।

[सं. एल-12011/2/95-आई. आर. (बी.-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 4th April, 2003

S.O. 1297.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 107/96) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kapurthala-Ferozpur Kshetriya Gramin Bank and their workman, which was received by the Central Government on 3-4-2003.

[No. L-1 2011/2/95-IR (B. 1)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

PRESIDING OFFICER: SHRI S. M. GOEL

Case No. ID 107/96

President, Kapurthala-Ferozpur Kshetriya Gramin Bank Employees Union, H. No. 31/75 Neecha Bandan, Kapurthala (Punjab).

...Applicant.

V/s

Chairman, Kapurthala-Ferozpur Kshetriya Gramin Bank, Kapurthala, Punjab.

...Respondent.

REPRESENTATIVES

For the workman : None

For the management : Sh. N. K. Zakhmi

AWARD

(Passed on 14th February, 2003)

The Central Government Ministry of Labour vide Notification No. L-12011/2/95-I.R.(B.) dated 29th November 1996 has referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Kapurthala-Ferozpur Kshetriya Gramin Bank, Kapurthala in not regularising the services of Shri Gopal Sharma, daily wages part-time messenger w.e.f. 11-7-88 and Shri Yashpal w.e.f. 10-1-90 is legal and Justified? If not, what relief the concerned workman are entitled and from what date?”

2. None has put up appearance on behalf of the workman. It appears that the workman is not interested to pursue with the present reference. In view of the above the present reference is returned to the Ministry for want of prosecution. Central Govt. be informed.

Chandigarh.

14-2-2003

S. M. GOEL, Presiding Officer

नई दिल्ली, 4 अप्रैल, 2003

का. आ. 1298.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधनत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चंडीगढ़ के पंचाट (संदर्भ संख्या आई. डी. नं. 162/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-4-2003 को प्राप्त हुआ था।

[सं० एल-12012/173/91-आई. आर. (बी.-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 4th April, 2003

S.O. 1298.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 162/91) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 3-4-2003.

[No. L-12012/173/91-IR (B. 1)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

PRESIDING OFFICER: SHRI S. M. GOEL

Case No. ID 162/91

The General Secretary, State Bank of India Staff Congress, 3135, Sector 22-D, Chandigarh

...Applicant.

V/s

The Regional General Manager, State Bank of India Zonal Office, Haryana & Chandigarh, Sector 8-C, Chandigarh-160008.

...Respondent.

REPRESENTATIVES

For the workman : Sh. J. G. Verma

For the management : Sh. Ajay Kohli

AWARD

(Passed on 7-3-2003)

The Central Government Ministry of Labour vide Notification No. L-12012/173/91-IR(B. 3) dated 29th October 1991 has referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of State Bank of India Zonal Office, Haryana Chandigarh, over denial of pension benefits to Shri Amar Nath, Guard, w.e.f. 30-8-80 is justified, legal and fair? If not, to what relief is the workman entitled to?”

2. It is pleaded in the claim statement by the workman that he was appointed in the bank as guard in the

year 1959 and served the bank for a period of more than 21 years upto the date of retirement i.e. 30-8-1980. The workman was enrolled as member of the pension fund but the pension was denied on the retirement on the plea that he had not rendered 20 years pensionable service. It is further pleaded that he served in the army for more than 10 years and he was given the benefit of army service for the purpose of payment of medical, housing loan, increments and other benefits but he was denied pension as his service beyond 58 years has not been counted. He has thus prayed that rule be declared arbitrary and ultravires and pension may be awarded alongwith interest and penalties.

3. In the written statement the management has pleaded that the workman was over 38 years of age on the date of appointment and the workman is not eligible for pension at the time of retirement. The management thus prayed for the rejection of the reference.

4. Both the parties in support of their respective pleadings filed their affidavits in evidence. The management also relied on document Ex. M2 which is the employees pension fund rules.

5. I have heard the learned counsel for the workman and learned representative of the management have gone through the evidence and record of the case. The learned counsel for the workman has argued that the workman is eligible for pension as the circular of the management fixing the cut off date for the eligibility of pension is arbitrary and the same is liable to be quashed. For his arguments he has also relied on the judgment of Hon'ble Supreme Court in the case of Subrata Sen Vs. Union of India reported in Labour and Service Judicial Reports 2002(1) page 317 and AIR 1988 (P&H) 265. On the other hand, the learned representative of the management vehemently argued that as per the scheme of pension of the bank Ex. M2 the workman is not entitled for pension as he is not fulfilling the eligibility criteria for granting him pension and clause 8 of the said pension scheme postulates that the person can not become the member of pension fund if he is below 21 years of age and if he is over 35 years of age. I have carefully gone through the contentions of the learned representative of the parties. Rule 22 of the pension Rule Ex. M2 clearly states that a member shall be entitled to pension after having completed 20 years of pensionable service irrespective of the age. In the case in hand the workman admittedly worked with the management for 21 years six months and twenty days but he was denied pension because at the time of entering in the service of the bank at the age of 38 years whereas the cut off date is 35 years. The authorities cited by the learned counsel for the workman are not applicable in the facts and circumstances of the present reference. The pension fund rules have not been declared ultravires by the Hon'ble Supreme Court or by the Hon'ble High Court in the above authorities. Thus in view of the ineligibility of the workman as per the pension fund rules, the workman can not be held entitled for the pension as he entered into the service of the bank at the age of 38 years and clause 8 debarred such employees for becoming the member of the pension fund. Thus I find no merit in the present reference and the same is answered against the workman. Central Govt. be informed.

Chandigarh

7-3-2003

*S. M. GOEL, Presiding Officer

नई दिल्ली, 3 अप्रैल, 2003

का. आ. 1299.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रमन्यायालय चंडीगढ़ के पंचाट (संदर्भ संख्या 32/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-4-2003 को प्राप्त हुआ था।

[सं. एल-12012/33/94-आई. आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 3rd April, 2003

S.O. 1299.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 32/94) of the Central Government Industrial Tribunal/Labour Court, Chandigarh as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 3-4-2003.

[No. L-12012/33/94-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

PRESIDING OFFICER SHRI S. M. GOEL

Case No. ID 32/94

Shri Arun Ghai, C.C. Member, Canara Bank Staff Union
1662, Rari Mohalla, Ludhiana.

...Applicant.

V/s

Deputy General Manager, Canara Bank, Circle Office,
Sector 34-A, Chandigarh.

...Respondent.

REPRESENTATIVES

For the workman : None

For the management : Sh. K. D. Aggarwal with
Sh. V. K. Garg

AWARD

(Passed on 28th February, 2003)

The Central Government Ministry of Labour vide Notification No. L-12012/33/94-I.R. (B. 2 dated 28th April) 1994 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Canara Bank, Chandigarh is imposing the punishment of

stoppage of one increment for a period of 6 months with cumulative effect, on Shri V. K. Gupta, Clerk vide their order dtd. 31-10-88 is justified? If not, what relief is the said workman entitled to?"

2. None appeared on behalf of the workman. It appears that the workman is not interested to pursue with the present reference. In view of the above the present reference is returned to the Central Govt. for want of prosecution. Central Govt. be informed.

Chandigarh.

28-2-2003 S. M. GOEL, Presiding Officer

नई दिल्ली, 3 अप्रैल, 2003

का. आ. 1300.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईंडियन ऑवरसीज बैंक के प्रबंध धर्तन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय चंडीगढ़ के पंचाट (संदर्भ संख्या 6/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-4-2003 को प्राप्त हुआ था।

[सं० एल-12012/296/92-आई. आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 3rd April, 2003

S.O. 1300.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 6/93) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Indian Overseas Bank and their workman, which was received by the Central Government on 3-4-2003.

[No. L-12012/296/92-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM
LABOUR COURT, CHANDIGARH

PRESIDING OFFICER SHRI S. M. GOEL

Case No. ID 6/93

Shri. R. N. Khanna, H. No. 158, Phasc-6,
Mohali (PB).

...Applicant.

V/s

General Manager,
Indian Overseas Bank

Anna Sarai, Central Office
Madaras.

...Respondent.

REPRESENTATIVES

For the workman : None

For the management : Sh. R. K. Chopra

AWARD

(Passed on 4th March 2003)

The Central Government Ministry of Labour vide Notification No. L-12012/296/92-I.R. B. 2 dated 21st December, 1992 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Indian Overseas Bank Ltd. in dismissing the services of Shri R. N. Khanna w.e.f. 22-3-89 is legal and justified? If not to what relief the concerned workman is entitled and from what date?

2. None appeared on behalf of the workman. It appears that the workman is not interested to pursue with the present reference. In view of the above the present reference is returned to the Central Govt. for want of prosecution. Central Govt. be informed.

Chandigarh.

Dated

4-3-2003

S. M. GOEL, Presiding Officer

नई दिल्ली, 3 अप्रैल, 2003

का.आ. 1301.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंध धर्तन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण प्रम न्यायालय, बंगलोर के पंचाट (संदर्भ संख्या 209/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-4-2003 को प्राप्त हुआ था।

[सं० एल-12011/33/95-आई. आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 3rd April, 2003

S.O. 1301.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 209/97) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the management of Canara Bank and their workmen, received by the Central Government on 3-4-2003.

[No. L-12011/33/95-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,

"Shram Sadan"
G.G. Palya, Tumkur Road,
Yeshwantpur, Bangalore-560022

Dated : 24th March, 2003
PRESENT : SHRI V. N. KULKARNI
Presiding Officer
C. R. No: 209/97

I Party	II Party
The Assistant Secretary, Canara Bank Staff Union, Treveni Compound, Near Capitanio High School, Mangalore-575002.	The Deputy General Manager, Canara Bank, Circle Office, Light House Hill Road, Mangalore-575001.
Appearances	
I Party :	R. Nagendra Nayak, Advocate
II Party :	T. R. K. Prasad, Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-120011/33/95/IR(B-II) dated 04-3-1997 for adjudication on the following schedule.

SCHEDULE

"Whether the action of the Management of Canara Bank in discriminating, denying absorption and other benefits to the drivers employed through the Executives is legal and justified? If not, to what relief the concerned workmen are entitled?"

2. The first party union workman was working as Personal Driver with the Management. He was refused job and therefore, Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the I party Union workman is as follows:

5. The II party is a Nationalised Bank. Eight workmen mentioned in Para 5 of the claim statement are involved in this dispute. The II party has been exploiting the workmen by denying them Salary, Wages, Increments and other service benefits that are payable to the Bank Drivers. The

pay scales are also stated in para 7 of the Claim Statement. It is also said that the Drivers are entitled for Annual Increment and other benefits as per the Bi-partite Settlement. The work of Drivers with the Executives is given in detail in para 8, 9 and 10.

6. It is the further case of the I party Union that the Government of India, Ministry of Finance has instructed all the Public Sector Banks including the II Party Bank to absorb all the Drivers who are appointed as Personal Drivers and who are working as such as in sub-staff cadres.

7. It is the further case of the Union that the action of the Management is not correct and award be passed in favour of the Union.

8. The case of the Management is as follows:

9. The case of the Management is that the reference is not maintainable and this Tribunal has no jurisdiction. The main contention of the Bank is that Personal Drivers are not the employees of the Corporation. Details of the executives who are entitled for Car and Car Allowance is stated in para 3 and 4 of the Claim Statement.

10. It is the further case of the Management that the Personal Drivers of the Executives are not the workmen of the II party Bank. Therefore, the reference has no merit. Some decisions are also cited in the Counter.

11. It is the further case of the Management that when the Personal Drivers are not employees of the Management, the question of depending them of the service conditions applicable by the Bi-partite Settlement does not arise at all. Management for these reasons and for some other reasons has prayed to reject the reference.

12. It is seen from the Records that the Management examined Mr. I. Mt. Raghuveer Nayak. His evidence is that Bank has provided cars to the Officers who are in Scale IV and above. He has produced certain documents. His further evidence is that there is no relationship of Employer and Employee between the workman and the Management. The Union cannot take the cars of the Drivers.

13. Against this two drivers, Mr. Haridas, WW 1 and Mr. Sikkharan, WW2 have been examined on behalf of the I party.

14. I have heard arguments of the Parties. I have considered the documents filed by the Management and the I party Union workman.

15. The learned counsel for the Management relied the following decisions:

1. 1978 (1) LLJ 312 SC

2. 1994 (2) LLJ Page 792

16. I have read the above decisions carefully. During the course of arguments, it was submitted by the learned counsel for the Management in view of the circular and the guidelines some of the drivers would be absorbed.

17. I have carefully considered this aspect by comparing documents produced by the parties. I have read the affidavit evidence in detail. It was submitted by the learned counsel for the management that in view of the circulars and guidelines, I party union workman Mr. Haridas, Mr. Radhakrishna, Mr. Viswanath and Mr. Sukumar would be absorbed because they are eligible according to the guidelines and instructions issued by the competent authorities.

18. Considering the submission of the learned counsel for the Management that workman at Sl. No. 1, 3, 5, 6 and 8 would be absorbed. In my opinion other 3 workmen, Sl. No. 2, 4 and 7 can be absorbed if they are eligible. With this direction, I proceed to pass the following Order:

ORDER

The reference is partly allowed holding that the Management will absorb Sl. No. 1, 3, 5, 6 and 8 and in a phased manner in the course of time as Sub-staff/PTE as against available vacancies and there is no dispute about them. So far as I party workmen at Sl. No. 2, 4 and 7 are concerned, the direction is given to the Management to consider their case for absorption if they are eligible. No other benefits are given. Accordingly, reference is disposed off.

(Dictated to the LDC, transcribed by him, corrected and signed by me on 24th March 2003.)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 3 अप्रैल, 2003

का.आ. 1302.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/त्रिम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ संख्या 21/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-4-2003 को प्राप्त हुआ था।

[सं. एल-12012/192/97-आई.आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 3rd April, 2003

S.O. 1302.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 21/98) of the Central Government Industrial Tribunal/Labour Court, Chandigarh as shown in the annexure in the Industrial Dispute between the management of Bank of India and their workman, which was received by the Central Government on 3-4-2003.

[No. L-1201L/192/97-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Presiding Officer, Shri S. M. Goel

Case No. ID 21/98

Shri. P. N. Gaind C/o Sh. P. K. Mutneja, Advocate,
K. No. 160, Sector 8-A, Chandigarh-160008.

...Applicant

V/s

The Zonal Manager, Bank of India, Zonal Office
North Western Region, 181-182, Sector 17-C,
Chandigarh.

...Respondent

REPRESENTATIVES

For the workman : Sh. D. R. Sharma

For the management : Sh. Ranjan Lohan

AWARD

(Passed on 3-3-2003)

The Central Government Ministry of Labour vide Notification No. L-12012/192/97-I.R.(B-II) dated 13th January 1998 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Bank of India in imposing the penalty of dismissal from service of Shri P. N. Gaind, Ex-Clerk vide order dt. 13-6-1994 is legal and justified? If not to what relief the workman is entitled?”

2. In the claim statement the workman pleaded that he was appointed as sub-staff on 2-6-1980 and promoted to clerical cadre on 15-10-94. He was served with a charge sheet on 28-1-94 and without affording any opportunity to the workman for filling or reply, inquiry officer was appointed by the management which shows the prejudice mind of the management. Inquiry was conducted and during the inquiry the workman was forced to sign the blank papers. No opportunity was given to the workman to contest the charges. The punishment awarded to the workman is disproportionate. The workman thus prayed that workman be reinstated in service with full back wages and with all consequential benefits.

3. In the written statement the management has averred that the workman while posting at Panjehra branch misappropriated money handed over to him by the customers for depositing in their respective accounts. The detail charges are given below:

- (i) On 1-10-93 the workman did not deposit the amount of Rs. 3300/- in the SB A/c No. 1071 of Shri Ranbir Singh S/o Sh. Ram Rattan after taking cash receipts and making credit entry of Rs. 3300/- in the respective pass-book of the A/c mentioned hereinabove. Similarly on 15-10-93 also the workman did not deposit an amount of Rs. 1700/- in the SB A/c No. 1071 of Shri Ranbir Singh S/o Shri Ram Rattan after taking cash receipt and

making credit entry of the aforesaid amount in the pass book of the said A/c. The aforesaid misappropriated amount of Rs. 5000/- was subsequently deposited in the SB A/c No. 1071 through his sister on 30-11-93 and 2-12-93.

(ii) On 2-8-93 the workman did not deposit the amount of Rs. 200/- after taking cash receipt and making credit entry in the pass-book of the RD A/c No. 311 of Smt. Samati W/o Shri Hari Chand. Subsequently on 23-11-93, he made good the amount of Rs. 200/- by depositing the said amount in RD A/c of Smt. Samati.

(iii) On 25-9-93, the workman in token of having received the amount of Rs. 150/- from M/s. Vishwa Karma Radio Works who had given the said amount to the workman from depositing it in their CGC A/c, gave them the counterfoil of the paying-in-slip duly initialled by him after putting the stamps of the Bank's scroll and/or receipt of cash. Moreover, he neither entered the aforesaid amount in the scroll book nor deposited in the branch for crediting the account of M/s. Vishwa Karma Radio Works.

(iv) On 14-7-93 (Wednesday—Non Working day), the workman did not deposit Rs. 200/- received from Shri Mela Ram for depositing in RD A/c No. 340 after taking cash receipts and making the credit entries of Rs. 100/- each in the respective pass-book.

(v) On 3-12-93, the workman did not deposit the amount of Rs. 100/- in SB A/c No. 1104 of Shri Rajinder Singh after receiving cash and making credit entry of Rs. 100/- in the pass book of the said account.

(vi) On 24-9-92, the workman did not deposit the amount of Rs. 200/- each in RD A/c No. 183 and CGC A/c No. 1/143 after taking cash and making credit entries in the pass-book of the respective accounts.

It is further pleaded that the enquiry has been conducted in a fair and proper manner and the workman after carefully going through the original record and documents relevant to the case voluntarily admitted all the charges except charge No. (vi) and the disciplinary authority after carefully examining the proceedings issued show cause notice of dismissal from service. In appeal also the workman was afforded full opportunity of hearing. It is also pleaded that in the past also, the workman awarded the punishment of dismissal for similar acts of misconducts committed by him while posted at Vijay Nagar Branch but earlier punishment was modified by the appellate authority in stoppage of 10 increments with a view to give him an opportunity to improve. It is thus prayed that there is no merit in the present reference and the same deserves dismissal.

4. Both the parties filed their respective affidavit in support of their respective pleadings. The management

also produced ~~to~~ record the entire enquiry proceedings. I have heard the learned counsels for the parties on the fairness of the enquiry and also gone through the record of the case with the assistances of the learned counsels for the parties. The learned counsel for the management has vehemently argued that the enquiry has been conducted fairly and properly against the workman and all norms of principles of natural justice have been observed. It is further pleaded by the learned counsel for the management that all the charges except charge No. VI has been admitted by the workman voluntarily and without any pressure. He has even in appeal before the appellate authority dated 17-8-1994 has admitted the misconduct by saying that due to some unscrupulous elements dragged him to bad habits of drinking. The learned counsel for the management has further submitted that in the past also the workman indulged in similar activities and he was awarded the punishment of dismissal from service after holding the enquiry. On earlier occasion, he was awarded the punishment of stoppage of 10 increments instead of punishment of dismissal by taking lenient view by the appellate authority to give him a chance to reform. But the workman has not shown any improvement and he again committed frauds and this time also he has been found guilty of the charges and voluntarily admitted the charges which are serious in nature and the workman deserves no leniency. On the other hand, the learned counsel for the workman has fairly argued that without commenting on the merits of the conduction of the enquiry proceedings, the Tribunal may exercise its discretion for lesser punishment and the punishment of dismissal is too harsh and requested the Tribunal to exercise its jurisdiction in favour of the workman.

5. I have gone through the submissions made by the learned counsels for the respective parties. The workman admitted the charges levelled against him and he even admitted the charges during the appeal also, which fact is on the record. The workman was also involved in fraud of similar nature and he was after holding of the enquiry awarded the punishment of dismissal. But this punishment of dismissal was substituted with the stoppage of 10 increments by the appellate authority with a view to give the chance to reform. But taking into consideration of the past misconduct of the workman, it is not a fit case for exercising the discretion of this Tribunal in favour of the workman. It is further held that there is no infirmity in holding the departmental proceedings as the workman was given full opportunity of defence during the enquiry proceedings. He was also given personal hearing by the appellate authority and thus I have no hesitation in holding that enquiry has been conducted fairly and properly by the enquiry officer. Thus following the judgement of the Hon'ble Supreme Court in the case of UCO Bank, Chandigarh and Ors Vs. Hardev Singh decided on 18-02-2002, there is no merit in the present reference and the workman is not entitled to any relief whatsoever. Central Govt be informed.

Chandigarh

S. M. GOEL, Presiding Officer

03-03-2003

नई दिल्ली, 3 अप्रैल, 2003

का. आ. 1303.—ऑटोगिल विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधातंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑटोगिल विवाद में केन्द्रीय सरकार ऑटोगिल अधिकरण/प्रभ न्यायालय बंगलोर के पंचाट (संदर्भ संख्या 22/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-4-2003 को प्राप्त हुआ था।

[सं० एल-12012/289/1999-आई. आर. (बी. II)]

सी. गंगधरण, अधर सचिव

New Delhi, the 3rd April, 2003

S.O. 1303.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 22/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the management of Syndicate Bank and their workmen, received by the Central Government on 03-04-2003.

[No. L-12012/289/1999-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
“SHRAM SADAN”,
III MAIN, III CROSS, II PHASE, TUMKUR ROAD,
YESHWANTHPUR, BANGALORE.

Dated : 1st April, 2003

PRESENT:

HON'BLE SHRI V. N. KULKARNI, B.Com, LL.B,
PRESIDING OFFICER
CGIT-CUM-LABOUR COURT,
BANGALORE
C. R. No. 22/2000

II PARTY

NAME : ...	AM,	The General Manager (P),
AGE : ...	in Niday,	Syndicate Bank,
ADDRESS : ...		Head Office,
MANUFACTURE : ...		Manipal-576 119
STATE : ...		Karnataka

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 17 of the Industrial Disputes Act, 1947 has referred this

dispute vide order No. L-12012/289/99/IR (B-II) dated 29th February, 2000 for adjudication on the following schedule :

SCHEDULE

“Whether the action of the management of the Syndicate Bank is justified in dismissing the services of Shri M.D. Jairam w.e.f. 23-3-1999? If not, what relief the workman is entitled?”

2. The first party was working with the management. He was dismissed from service and therefore, Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the workman in brief is as follows :—

5. Charge sheet was issued to the workman alleging that he was absent for 318 days from 3-1-1997 and 8-1-1998. Again he joined duties for a period of 7 days and produced medical certificate, as he was not well. The main contention is that on account of ill health he could not attend office regularly. He had a severe jaundice problem and the action of the management is not correct.

6. It is his further case that there was sufficient leave at his credit. He has submitted leave application with medical certificate and the same has not been considered.

7. Regarding enquiry it is said the same is fair and proper. Workman for these reasons and for some other reasons has prayed to pass award in his favour.

8. Against this the case of the management in brief is as under :—

9. Management has stated in Para 2 giving the dates that the workman was absent for 318 days. The case of the workman is that the first party attended the office and he produced certificates is not correct. The first party did not adhere to the leave rules. Enquiry was properly conducted and all the allegations are not correct. The punishment is correct. Misconduct is proved. Management has prayed to reject the reference.

10. It is seen from the records that the management examined one witness MW1. He has given his evidence about the enquiry. Against this workman has given evidence and said that Enquiry is not fair and proper. The contention of the workman through out and the evidence of the workman is also to the effect that he was not well and therefore he remained absent.

11. This tribunal by its order dated 25th March 2003 has held that the Domestic Enquiry is fair and proper and thereafter the matter was posted for arguments.

12. I have heard the learned counsels appearing for the parties. I have carefully perused the records filed by the Management.

13. Now that the enquiry is held as fair and proper, we will have to see whether the findings of the Enquiry Officer is correct or the same is perverse.

14. Further we will have to see whether it is a fit case to invoke the provisions of Section 11 A of the ID Act. The main allegations against the workman are that he was absent for 318 days.

15. Against this the case of the workman is that he was not keeping good health and he was suffering from Jaundice so he was on leave and he produced the medical certificates and the management has not considered the same.

16. I have carefully perused the records and the Enquiry Report. Admittedly in the instant case Ex parte Enquiry is held, the contention of the workman is that he was not keeping good health and the said recommendation to give time for enquiry but all that is not considered by the Enquiry Officer.

17. Management has produced Statement MEX-5 showing the absence of the workman. In other words it is a chart.

18. It is seen from the records that the workman remained absent and has placed ex parte and enquiry was concluded. The report of the Enquiry Officer is not a speaking report. When the workman has said that he has applied leave and he had leave at his credit and he has produced medical certificate, it was the duty of the management to rebut those allegations by producing records available with the bank. The management should have adduced evidence saying that the workman has no leave at his credit and at no time the workman has applied leave with medical certificates. All this is not proved. The findings of the Enquiry Officer is not a speaking order. Through out the workman has contended that he was on leave on medical grounds.

19. Taking all this into consideration I am of the opinion that this is a fit case to invoke the provisions of Section 11A of the ID Act. Accordingly I proceed to pass the following Order :

ORDER

The reference is partly allowed and the management is directed to reinstate the workman to his original post, which he was holding at the time of dismissal with continuity of service. No other benefits are awarded.

(Dictated to PA transcribed by her corrected and signed by me on 1st April 2003)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 3 अप्रैल, 2003

का. आ. 1304.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अमन्यायालय चेन्नई के पंचाट (संदर्भ संख्या 1/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-4-2003 को प्राप्त हुआ था।

[सं. एल-12011/69/2002-आई. आर. (बी. II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 3rd April, 2003

S.O. 1304.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 1/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the annexure in the industrial dispute between the management of Indian Bank and their workmen, received by the Central Government on 3-4-2003.

[No. L-12011/69/2002-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 31st March, 2003

Present : K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 1/2003

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Workmen and the Management of Indian Bank].

BETWEEN

The General Secretary, : I Party/Claimant
Madras Metro General
Workers Union, Chennai.

AND

The General Manager, : II Party/Management
Indian Bank, Chennai.

APPEARANCE :

For the Claimant : Unrepresented

For the Management : M/s. King &
Partridge, Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-12011/69/2002/IR (B-II) dated 7-11-2002.

On receipt of the order of reference from the Government of India, Ministry of Labour, this case has been taken on file as I.D. No. 1/2003 and notices were sent to the parties to the dispute by registered post, with a direction to appear before this Tribunal on 17-01-2003 to file their respective Claim Statement and Counter

Statement and to prosecute this case further. In spite of notice sent by Registered Post and duly served on the I Party/Claimant Union, the date on which the hearing was fixed, as no one appeared before this Tribunal for the I Party/Claimant, the case was adjourned to the next three hearing dates for filing Claim Statement of the I Party/Claimant. Though the order of reference cited above, sent by the Ministry of Labour directly to the I Party to the given address, they have not chosen to appear before this Tribunal within fifteen days of receipt of that reference and to file the Claim Statement. The counsel who entered appearance for the II Party/Management had filed his statement of objection to the dispute raised by the I Party/Claimant with a copy of the written representation filed by the Petitioner union while raising this dispute earlier before the conciliating authority and also the comments submitted by the II Party/Management before the conciliating authority. The II Party/Management has filed xerox copy of the 31 documents in support of their version in their Counter Statement. Those documents have been marked as Ex. M 1 to M 31. the learned counsel for the II Party/Management has advanced his arguments. On hearing the arguments of the learned counsel orders has been reserved to decide the dispute on merits on the available materials and records.

Upon perusing the order of reference, statement of objection filed by II Party/Management, documentary evidence let in on the side of the II Party/Management alone, the other material papers on record, after hearing the arguments advanced by the learned counsel for the II Party/Management alone and this matter having stood over till this date for consideration, this Tribunal has passed on merits, the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether employer-employee relationship exists between the canteen workers (as per list annexed) and the management of Indian Bank and whether the claim for their absorption/regularisation in service of the bank is legal and justified? If not, what relief is the disputants are entitled to?”

2. In the absence of Claim Statement filed by the I Party/Union, their earlier written representation filed before the Assistant Labour Commissioner (Central-II), Chennai for conciliation for the relief prayed for by the Union on behalf of the concerned workmen, the Respondent/Bank management has been taken as the Claim Statement of the I Party/Union in this dispute for adjudication before this Tribunal. The xerox copy of the same has been filed along with the statement of objection of the II Party/Bank management.

3. It is the claim of the I Party/Union on behalf of the concerned Canteen workers as mentioned in their earlier written representation before the Assistant Labour Commissioner (Central) are briefly as follows :—

The concerned 24 canteen employees were working under the control of the II Party/Indian Bank Management Chennai for several years. Those employees are working without any statutory benefits. They are receiving the salary ranging from Rs. 500 to Rs. 2700 only without any other regular monetary benefits. Since the canteen employee are part of the establishment and their services are required for efficient administration of the bank, they should be treated as bank employees. The canteen is being run within the premises of the bank and the food items are supplied only to the staff of bank at subsidiary rates. The space, electricity, fuel, vessels, water, furniture are supplied by the bank free of cost and funds are also provided by the bank in the name of glance for the maintenance of the canteen. The canteen is administered by the ex-officio President who is in the cadre of Assistant General Manager or in the cadre of Chief Officer of the bank and a Committee of bank staff elected by the employees of the bank. The canteen is under the direct control and supervision of the bank and funded by the bank. Therefore, the canteen employees have to be treated as direct employees of the bank and the benefits intended to Class IV employees of the bank are to be extended to these canteen employees as in the case of Indian Overseas Bank employees and their services have to be regularised from the date of appointment and they have to be absorbed by the Respondent/Bank as bank employees.

4. The averments in the statement of objection filed by the II Party/Indian Bank Management, Chennai, (hereinafter refers to as Respondent) are briefly as follows :—

The dispute is not maintainable and liable to be dismissed for the reason that the I Party/Union cannot raise this dispute since it does not have any employees of the bank much less substantial number of employees as its members. The I Party/Union is a stranger not a party in Bipartite Settlement between banks and unions at the industry level and is in no way connected with the II Party. The union which is representing the employees of the organisation alone can raise an industrial dispute under the provisions of Industrial Disputes Act, 1947. All the employees working in the bank are entitled to avail canteen subsidy of Rs. 3 per employee per working day irrespective of the fact that whether canteen facility is available in the branch/office or not. If the total staff strength of a particular branch or office is 75 or more, subject to availability of space in the branch/office, to have a canteen. Such office is permitted to have a canteen run by the Canteen Committee elected by the employees/officers working in the said branch/office. The user staff pay price for the

eatables which form a major part of money to run the canteen on no loss/no profit basis. The II Party has no financial control over the canteen. The entire administration and running of the canteen are being done by the Committee elected by the members of the branch/office. The canteen facility is not a part of service conditions. It is neither a statutory obligation nor an obligation arising out of any settlement or service regulations etc. The said facility will be available as a welfare measure in the places where it is feasible to have the same. In other words, in places where it is not feasible to have canteen facility, it will not be run even if the employees' strength is more than 75. A provision or facility provided for promoting the canteen does not make the canteen a part of the establishment of the II Party/bank and it is altogether different from running the canteen by the bank itself. The canteen management committee consists of six elected representatives apart from one ex-officio President. The representatives of two officers, two clerks and two sub-staff are elected by all the members working in the particular branch. The ex-officio President participates in the management Committee Meeting, General Body Meeting and provides only limited assistance, as advisor to the Secretary/Treasurer as well as to the canteen management committee. The Secretary and Treasurer would be in-charge of the day to day working/supervision of the functioning of the canteen. The decision of the canteen management committee is final in all aspects. The Treasurer and in his absence, the Assistant Treasurer shall maintain the day to day accounts and the monthly accounts. Annual balance sheets to be drawn up and duly audited by placed before the Canteen Management Committee. The General Body Meeting would be convened within one month from the date of finalisation of the accounts. Bank has no right whatsoever, direct any canteen employee to do the particular work and control them. As the canteen is run by the Committee on No Loss/No Profit basis, the canteen management committee is entitled to determine the rate of food items prepared and sold to the employees working in the respective branch/office. It is learnt from the Secretary, Canteen Management Committee that it engages 16 workmen on casual basis at present, though they were engaging 24 casual workmen in the past. It is therefore, obvious that out of the 24 employees annexed in the reference 8 employees are not working at present. The canteen management committee has got total control over engagement of workers in the canteen. As the canteen workers are engaged under administrative and disciplinary control of the canteen management control, the work performed by the canteen workers are being guided, supervised and control by the canteen management committee members themselves. The employees mentioned in the annexure to the reference were neither recruited and on behalf of the II Party/Management nor controlled by the II Party. The employees working in the canteen are not the employees of the II Party/Indian Bank. The II Party is having definite rules and regulations for recruitment of its

employees and being a bank owned by Govt. It has to follow those rules scrupulously. The II Party/Management is having no control whatsoever against the workmen employed by the Canteen Management Committee. The workers working in the canteen make their demands like increase in wages and working conditions etc., with the canteen management committee alone. Disciplinary action, recruitment, termination and fixation of wages shall be done by the canteen management committee alone. Thus, the employees working in the canteen are not the employees of the Respondent/Bank and there is no employer and employee relationship ever exists. The Respondent/Bank management is having own statutory obligations to provide and maintain canteen for the use of its employees. There is no obligation implicit or explicit to maintain the canteen. The documents filed along with this Counter Statement will show that the canteen is administered by canteen Management Committee. Having disciplinary control over the workers employed in the canteen, and they initiated appropriate disciplinary action against those erring canteen workers. The bank has no role to intervene in the affairs of the committee. The workmen recruited and working under the control of the canteen management committee cannot be treated as the employees of the II party/Indian Bank. Since there is no relationship of employer and employee between the concerned canteen workmen and the II Party/bank management, the question of absorption/regularisation in the services of the bank does not arise at all. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to pass an award dismissing the industrial dispute raised by the I Party/Union.

5. The point for my consideration is—

"Whether employer-employee relationship exists between the canteen workers (as per list annexed) and the management of Indian Bank and whether the claim for their absorption/regularisation in service of the bank is legal and justified? If not, what relief is the disputants are entitled to?"

Point:—

This industrial dispute has been raised by the General Secretary, Madras Metro General Workers Union, Chennai espousing the cause of 24 canteen staff of Indian Bank staff Canteen mentioned in the list annexed to the reference. It is the case of the Petitioner Union as evidenced from the written representation made earlier before the conciliating authority is that the concerned 24 canteen employees are working under the control of the Respondent/Bank management for several years and they are part of the establishment and their services are required for the efficient administration of the bank and they should be treated as bank employees and their service have to be regularised from the date of their appointment as canteen employees and they have to be absorbed as bank employees. In proof of this contention raised by the I Party/Union for the industrial dispute raised by them against the

Respondent/Bank, the I Party/Union has not come forward to file their Claim Statement and let in oral or documentary evidence for the adjudication of this dispute by this Tribunal.

6. It is the definite contention of the Respondent/Bank in their statement of objection that the dispute itself is not maintainable, since the I Party/Union cannot raise this dispute as any of the employees of the bank much less substantial number of employees are not its members. To disprove this specific contention, the I Party/Union has not placed any materials before this Tribunal to show that it has locus standi to raise this dispute against the Respondent/Bank management. In the absence of one such proof, it can be said that the I Party/Union cannot raise this dispute as contended by the II Party/Bank Management.

7. It is the next contention of the Respondent/Bank that the I Party/Union is a stranger and not a party in the Bipartite Settlement between banks and unions at the industry level and is in no way connected with the II Party/Bank Management and that the Union which is representing the employees of the organisation alone can raise an industrial dispute under the provisions of Industrial Disputes Act. The very fact that the Petitioner Union is Madras Metro General Workers Union is not an Union which can represent the employees of the Respondent/Bank organisation. It cannot be disputed that this Petitioner Union is a stranger and not a party in Bipartite Settlement between banks and unions at the industry level. So on that ground also, the I Party/Union cannot raise this industrial dispute against the Respondent/Bank management under the provisions of Industrial Disputes Act, 1947, as it is not competent to raise an industrial dispute on behalf of the concerned canteen workman when there are recognised unions by the Respondent/Bank at the industrial level.

8. From the documentary evidence filed by the Respondent/Bank, it is seen that the contention of the Respondent/Bank in their statement of objection that the entire administration and running of the canteen are being done by the Committee elected by the members of the branch/office is correct. It cannot be denied that the canteen facility is not a part of service condition and it is neither a statutory obligation nor an obligation arising out of any settlement or service regulations etc. as it is contended by the Respondent/Management, the said facility has been provided by the Respondent/Bank management as a welfare measure in the places where it is feasible to have canteen facility and the facility provided for promoting a canteen does not make the canteen a part of the establishment of II Party/Indian Bank Management. It is altogether different from running the canteen by the bank itself. It is seen from the records exhibited by the Respondent/Management in this case that the canteen management committee only is running the canteen independently owning over all responsibility and the canteen is run by a committee on

'No Loss/No Profit' basis and the Bank has no right whatsoever to direct any canteen employee to do a particular work and control them. It is the specific contention of the Respondent/Bank management that the canteen workers are engaged under administrative and disciplinary control of the canteen management committee and their work are being guided, supervised and controlled by the Canteen Committee Management Members themselves and the 24 canteen employees mentioned in the annexure to the reference were neither recruited and on behalf of the II Party/Indian Bank Management nor controlled by the II Party and they are not employees of the II Party/Bank Management. To disprove the same, no acceptable oral or documentary evidence is available in this case on the side of the I Party/Union. It is further contended by the II Party/Bank Management that the employees working in the canteen are not the employees of the Respondent/Bank and there is no employer and employee relationship ever exists. To disprove the said contention and to prove the contention of the I Party/Union that these employees are working under the control of the Respondent/Bank management, nothing has been placed before this Tribunal as evidence. the learned counsel for the Respondent/Management had relied upon a decision of the Hon'ble Supreme Court reported as (2000) 5 SCC 531 State Bank of India and Others Vs. State Bank of India Canteen Employees Union (Bengal Circle) and Others for his contention that the employees of the canteen run by local implementation committee at branches of the bank are not employees of the bank as there is no statutory or contractual obligation or obligation under Sastry Award on the banks to run such canteens. In that cited case, the Hon'ble Supreme Court has held that "to promote canteen facilities by providing subsidy or other facilities is altogether different from running the canteen and the employees of the canteen are not the employees of the bank, as there is no statutory or contractual obligation or obligation under Sastry Award on the bank to run such canteens and that the said canteens are run by local implementation committee at branches of the bank as per the welfare scheme of the bank." In the written statement filed by the Union earlier before the conciliating authority, the Union has stated that the canteen is run within the premises of the bank and the space, electricity, fuel, vessels, water, furniture are supplied by the bank free of cost and hence, the canteen is under the direct control and supervision of the bank and funded by the bank. Similar such contention raised by the Canteen Employees Union in the case referred to above was considered by the Hon'ble Supreme Court. It is held by the Hon'ble Supreme Court in that case that "to promote canteen facilities the bank providing subsidy or other facilities is altogether different from running the canteen and the employees of non-statutory canteens are not the employees of the principal employer and there is no master and servant or employer and employee relationship between the canteen workmen and the bank management."

The above decision of the Hon'ble Supreme Court is squarely applicable to the facts of this case. It is held by the Apex Court in the cited case that "providing facility by the bank management to run the canteen will not tantamount to running the canteen by the bank itself." In a case reported as 1996 3 SCC 267 the Hon'ble Supreme Court has held that "merely because of a nomination of two representatives to the Canteen Committee by the bank or granting of subsidy or providing facilities by the bank, master and servant relationship could not be said to exist between the canteen workers and the bank. Hence, they are not workmen of the bank and not entitled to regularisation." This decision of the Hon'ble Supreme Court is also squarely applicable to the facts of this case. It is the specific contention of the Respondent /Bank management in the statement of objection that the canteen management committee engages 17 workmen on casual basis at present, though they were engaging 24 casual workmen in the past and the 8 employees out of the 24 employees mentioned in the annexure to the reference are not working at present. This has not been denied by the I Party/Union. From all these things, it is seen that the I Party/Union, which is not a Union of the Industry level and a stranger to Bipartite Settlement between the banks and recognised unions cannot espouse the cause of the concerned canteen employees and make a claim that they are the direct employees of the bank and the benefits intended to the class IV employees of the bank have to be extended to them also and their services have to be regularised from the date of their appointment as canteen employees and absorb them as bank employees. Therefore, it can be said that there is no employer-employee relationship exist between the canteen workers mentioned in the annexure and the management of Indian Bank and the Claim of the I Party/Union for their absorption, regularisation in services of the bank is not legal and not justified. Therefore, the concerned disputants are not entitled for any relief. Thus, the point is answered accordingly.

9. In the result, an Award is passed holding that the I Party/Union claim made on behalf of the concerned canteen workers against the Respondent/Bank management cannot be granted. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 31st March, 2003.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side. : None

Documents Exhibited :—

For the I Party/Claimant : Nil

For the II Party/Management :—

Ex. No. Date Description

MI 30-10-95 Xerox copy of the pamphlet issued

			by Mr. D. Thilagar Moses.
M2	09-11-95	Xerox copy of the pamphlet issued by Mr. D. Thilagar Moses.	
M3	11-11-95	Xerox copy of the pamphlet issued by contesting candidates.	
M4	1998	Xerox copy of the pamphlet issued by Mr. R. Krishnan.	
M5	30-06-98	Xerox copy of the letter from Secretary to President of the Canteen.	
M6	23-11-98	Xerox copy of the notice relating to Committee Meeting.	
M7	24-11-98	Xerox copy of the letter from Committee Member to Canteen.	
M8	01-12-98	Xerox copy of the pamphlet issued by Mr. R. Krishnan.	
M9	10-02-99	Xerox copy of the order of suspension of canteen worker issued by Secretary.	
M10	15-04-99	Xerox copy of the budget provision for 1999-2000 of IBSC	
M11	07-08-99	Xerox copy of the proceedings of canteen committee regarding wage revision.	
M12	20-12-99	Xerox copy of the letter from Committee Member to Treasurer.	
M13	21-12-99	Xerox copy of the reply of treasurer to Committee Member.	
M14	12-01-2000	Xerox copy of the circular issued by Canteen Committee.	
M15	09-02-2000	Xerox copy of the circular regarding canteen committee meeting.	
M16	12-02-2000	Xerox copy of the circular regarding canteen committee meeting.	
M17	03-2000	Xerox copy of the Income & Expenditure statement of Mar. 2000.	
M18	25-04-2000	Xerox copy of the letter from Treasurer to President of Canteen.	
M19	27-04-2000	Xerox copy of the letter from Secretary of Canteen to ex-officio President.	
M20	29-04-2000	Xerox copy of the representation given by canteen employees to Canteen Committee.	
M21	15-05-2000	Xerox copy of the notice issued by ex-officio President.	

M22 02-06-2000 Xerox copy of the letter from ex-officio President to Treasurer.

M23 02-06-2000 Xerox copy of the letter from ex-officio President to Secretary.

M24 2000 Xerox copy of the pamphlets issued by contesting candidates.

M25 23-09-2000 Xerox copy of the election proceedings.

M26 09-08-2001 Xerox copy of the lawyer's notice.

M27 05-09-2001 Xerox copy of the lawyer's notice.

M28 15-09-2001 Xerox copy of the reply notice.

M29 14-09-2002 Xerox copy of the notice regarding price revision.

M30 09-11-2002 Xerox copy of the notice regarding price revision.

M31 Dec., 2002 Xerox copy of the notice regarding canteen committee meeting.

नई दिल्ली, 7 अप्रैल, 2003

का. आ. 1305.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (vi) के उपबंधों के अनुसरण में, भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 3578 दिनांक 23-10-2002 द्वारा दिल्ली दुग्ध योजना के अन्तर्गत दुग्ध आपूर्ति में लगे उद्योग जोकि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्ट 6 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 24 अक्टूबर, 2002 से छ: मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छ: मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 24 अप्रैल, 2003 से छ: मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा० सं० एस-11017/7/97-आई. आर. (पी. एल.)]

जे. पी. पति, संयुक्त सचिव

New Delhi, the 7th April, 2003

S.O. 1305.—Whereas the Central Government having been satisfied that the public interest so required that in pursuance of the provisions of sub-clause (vi) of the clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 3578 dated 23-10-2002 the industry for the supply of Milk under the "Delhi Milk Scheme" which is covered

by item 6 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 24th October, 2002.

And whereas, the Central Government is of the opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 24th April, 2003.

[No. S-11017/7/1997-IR (PL)]

J. P. PATI, Jt. Secy.

नई दिल्ली, 7 अप्रैल, 2003

का. आ. 1306.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (vi) के उपबंधों के अनुसरण में, भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 3462 दिनांक 16-10-2002 द्वारा किसी भी तेल क्षेत्र जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्ट 17 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 16-10-2002 से छ: मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छ: मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (vi) के परन्तुक प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 16-4-2003 से छ: मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा० सं० एस-11017/10/97—आई. आर. (पी. एल.)]

जे. पी. पति, संयुक्त सचिव

New Delhi, the 7th April, 2003

S. O. 1306.—Whereas the Central Government having been satisfied that the public interest so required that in pursuance of the provisions of sub-cause (vi) of the clause (n) of section 2 of the Industrial Dispute Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour No. S.O. 3442 dated 16-10-2002 the services in any Oil Fields which is covered by item 17 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 16th October, 2002.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 16th April, 2003.

[No. S-11017/10/1997-IR (PL)]

J. P. PATI, Jt. Secy.

शुद्धि-पत्र

नई दिल्ली, 7 अप्रैल, 2003

का.आ. 1307.—भारत के राजपत्र भाग-II खण्ड-3, उप खण्ड (ii) दिनांक: 26 अक्टूबर, 2002 में प्रकाशित श्रम मंत्रालय की अधिसूचना संख्या : एस-38013/29/2002-एस. एस.-I का.आ. संख्या-3444 दिनांक 11-10-2002, पृष्ठ संख्या-10369 पर “जनक सिंहपुर” के बाद तथा “बाम्बड़ी” के पहले “फोलादपुर” शब्द शामिल हैं।

[सं. एस-38013/29/2002-एस. एस.-I]
संयुक्ता राय, अवर सचिव

CORRIGENDUM

New Delhi, the 7th April, 2003

S.O. 1307.—In the notification No. S-38013/29/2002-S.S.I. of the Govt. of India, Ministry of Labour, S.O. No. 3444 dated 11-10-2002, published in the Gazette of India, Part-II, Section-3, Sub Section (ii) dated 26-10-2002, at page 10369, for the word “or” appearing between the words “Nadhodi” and “Behror”, read “of”.

[No. S-38013/29/2002-S.S.I.]

SANJUKTA RAY, Under Secy.

शुद्धि-पत्र

नई दिल्ली, 7 अप्रैल, 2003

का.आ. 1308.—भारत के राजपत्र भाग-II खण्ड-3, उप खण्ड (ii) दिनांक: 19 अक्टूबर, 2002 में प्रकाशित श्रम मंत्रालय की अधिसूचना संख्या : एस-38013/26/2002-एस. एस.-I का.आ. संख्या-3384 दिनांक 4-10-2002, पृष्ठ संख्या-10158 पर “बनबना” के स्थान पर “बनबन” तथा “संतालका” के स्थान पर “सांथालका” पढ़ा जाए।

[सं. एस-38013/26/2002-एस. एस.-I]
संयुक्ता राय, अवर सचिव

CORRIGENDUM

New Delhi, the 7th April, 2003

S.O. 1308.—In the notification No. S-38013/26/2002-S.S.I. of the Govt. of India, Ministry of Labour, S.O. No. 3384 dated 4-10-2002, published in the Gazette of India, Part-II, Section-3, Sub Section (ii) dated 19-10-2002, at page 10158, the following correction/insertion may be made namely :—

1. For ‘Banbani’ read “Banban”
2. The word “Bangala” may be inserted between the words “Bilahedi” and “Santalka.”

[No. S-38013/26/2002-S.S.I.]

SANJUKTA RAY, Under Secy.

नई दिल्ली, 10 अप्रैल, 2003

का.आ. 1309.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में एतद्वारा श्रम मंत्रालय के अधीन कर्मचारी राज्य बीमा निगम के निम्नलिखित कार्यालयों को अधिसूचित करती है;

1. क्षेत्रीय कार्यालय, कर्मचारी राज्य बीमा निगम, गुवाहाटी।
2. क्षेत्रीय कार्यालय, कर्मचारी राज्य बीमा निगम, भुवनेश्वर।

[फा. सं. ई-11011/1/93-रा. भा. नि. (भाग)]

के. के. मरवाहा, उप सचिव

New Delhi, the 10th April, 2003

S.O. 1309.—In pursuance of Sub-rule (4) of the Rule 10 of the Official Language (Use for official purpose of the Union) Rule, 1976, the Central Government, hereby, notifies following offices under the Employee’s Estate Insurance Corporation working under the Ministry of Labour.

1. Regional Office, ESIC, Guwahati.
2. Regional Office, ESIC, Bhubneshwar.

[F. No. E-11011/1/93-RBN (Pt.)]

K. K. MARWAH, Dy. Secy.

नई दिल्ली, 17 अप्रैल, 2003

का.आ. 1310.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मई, 2003 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले ही प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध हरियाणा राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

क्र.सं.	राजस्व ग्राम	हदबस्त संख्या	जिला
1.	तिगांव	95	फरीदाबाद
2.	साधपुरा	100	फरीदाबाद
3.	पनहेड़ा खुर्द	65	फरीदाबाद

[सं. एस-38013/17/2003—एस. एस.-1]

संयुक्ता राय, अबर सचिव

New Delhi, the 17th April, 2003

S.O. 1310.—In exercise of the powers conferred by Sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st May, 2003 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except Sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Haryana namely :—

Sl.No.	Revenue Village	Had Bast No.	District
1.	Tigaon	95	Faridabad
2.	Sadhpura	100	Faridabad
3.	Panhera Khurd	65	Faridabad

[No. S-38013/17/2003-S.S. I]

SANJUKTA RAY, Under Secy.

नई दिल्ली, 2 अप्रैल, 2003

का.आ. 1311.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण /श्रम न्यायालय नं.2 धनबाद के पंचाट (संदर्भ संख्या 98/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-2003 को प्राप्त हुआ था।

[सं. एल-40012/152/96-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 2nd April, 2003

S.O. 1311.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 98/98) of the Central Government Industrial Tribunal-cum-Labour Court No.2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers relation to the management of D/o Post and their workman, which received by the Central Government on 2-04-2003.

[No. L-40012/152/96-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section
10 (1) (d) of the I. D. Act., 1947.

REFERENCE NO. 98 OF 1998

PARTIES : Employers in relation to the management
of Posts, Patna and their workman.

APPEARANCES :

On behalf of the workman : None.

On behalf of the employers : Shri H. Nath Advocate.

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 20th March, 2003.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(I)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-40012/152/96-IR (DU), dated, the 16th March, 1998.

SCHEDULE

“Whether the action of the management of Postal Department in terminating the services of Sh. Shambhu Singh, EDDA, Azgari Math post office is legal and justified? If not, to what relief the workman is entitled to?”

2. It appears from the record that the sponsoring union/concerned workman since receipt of the instant reference from the Ministry on 7-4-98 neither tendered their appearance nor filed any W.S. It is seen from the record that issuance of repeated notices to the concerned workman for causing his appearance has gone in vein. The management, however, after appearing before the Tribunal submitted W.S. However, management declined to adduce evidence ex parte on the ground of not taking any step by the concerned workman.

3. The point which is to be decided as per reference is that whether the action of the management of Postal department in terminating the services of Shri Shambhu Singh, E.D.D.A. Azgari Math Post Office is legal and justified.

4. Management after filing written statement submitted that Sri Ram Babu Singh, E.D.D.A. Azgari Math, B.O. was promoted to the Post man cadre against a vacancy of 1989 but did not join to the said post till 17-5-95 taking

different pleas. The workman Sri Shambhu Singh is the brother of said Ram Babu Singh and he worked as his substitute as E.D.D.A/MCAzgari Math B.O. time to time when Ram Babu Singh reported sick on the risk and responsibility of the permanent incumbent. At last in pursuance of P.M.G. Muzafarpur No. R & E/73-94, dt. 14-3-95, his candidature was cancelled. Thereafter, Sri Ram Babu Singh joined in postman cadre at Motihari Head Post Office on 18-5-95. Thus the post of E.D.D.A/M.C. Azgari Math, B.O. fell vacant with effect from 18-5-95. The S.D.I. (P) Motihari South requested for filling up the vacancy vide his Memo dt. 1-6-95 and he was permitted to fill up this post provisionally vide office order of 7-6-95. They submitted that the concerned workman did not work as a substitute of E.D. Agent for Ram Babu Singh for his entire period as claimed by him. As per rule, whenever the arrangement of substitute is approved a clear understanding is given that his substitute may be discharged by the appointing authority at any time without assigning any reason. They submitted that whenever an E.D. Agent proceeds on leave, he has to apply for leave in the prescribed proforma and should give declaration that his substitute will work on his risk and responsibility according to the terms of security Bond executed by him and for that reason the substitute is not required to furnish any Security Bond. They disclosed that appointment of E.D. Agents have to be made according to the rules made by the postal Department. They submitted that the concerned workman was never an employee of the postal department and accordingly question of his termination did not arise. In view of the facts and circumstances management submitted that the concerned workman is not entitled to get any relief.

5. Here the point for consideration as per reference is whether termination of the concerned workman from his service by the Postal Department was legal valid and justified. Considering the submission of the management it transpires that Ram Babu Singh was E.D.D.A/M.C. Azgari Math B.O. He was promoted to the post of Postman at Motihari Head Office but taking different pleas he did not join to his post till 17-5-95. They submitted that as per

postal department Rule E.D.D.A. is allowed to place his substitute on executing bond to work in the place in case of leave and sick subject to their prior approval. The concerned workman is the brother of Ram Babu Singh and occasionally in case of leave and sick vacancy of his brother he worked as his substitute. They categorically denied the fact that the concerned workman continuously worked as E.D.D.A. at Azgari Math till 1995. From the contention of the management it transpires that Ram Babu Singh was engaged as E.D.D.A. at Azgari Math B.O. till 17-5-95. He joined at Motihari Head Office on 18-5-95 as Postman. Therefore, till that period question of discharging duties of the concerned workman as E.D.D.A. at Azgari Math B.O. being substitute of his brother did not arise.

6. Accordingly, the concerned workman cannot avoid responsibility to disprove the claim of the management. It is seen that the concerned workman neither appeared nor submitted any W.S. in support of his claim. It is the specific claim of the management that as they did not issue any letter of appointment to the concerned workman question of his termination automatically did not arise. The concerned workman also cannot avoid responsibility to show that not only he worked continuously as E.D.D.A. being appointed by the management but he was illegally terminated.

7. As the concerned workman inspite of getting ample opportunity has misused the same there is no scope to disbelieve the contention of the management. In view of the facts and circumstances discussed above I hold that the concerned workman is not entitled to get any relief at all.

In the result, the following Award is rendered :—

“The action of the management of Postal Department in terminating the services of Sh. Shambhu Singh, EDDA, Azgari Math post office is legal and justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer